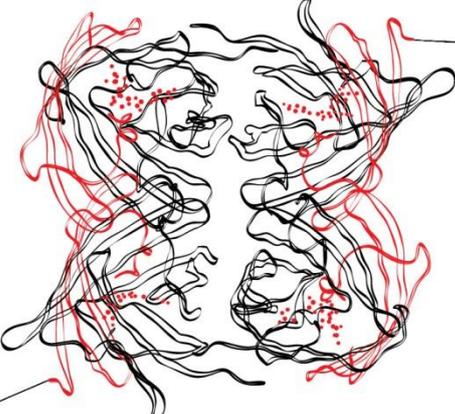


**University of Twente  
Complaints Procedure**



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## **Article 1 Definitions**

The following terms will have the following meanings in this procedure:

- a. *respondent*: the party whose conduct the complaint pertains to;
- b. *Executive Board*: the University's Executive Board;
- c. *complaint*: a complaint filed in writing about the way in which the University, or a staff member or administrative (or other) body working under the University's responsibility, has conducted himself/herself/itself in a certain situation. 'Conduct' will also include a failure to act;
- d. *complaints committee*: the University of Twente Complaints Committee, a committee as referred to in Article 9:14 of the Dutch General Administrative Law Act;
- e. *UT complaints office*: the accessible facility established pursuant to Article 7:59a of the Dutch Higher Education and Research Act;
- f. *complainant*: the party filing the complaint (staff member, student or third party);
- g. *staff member*: a person working under the University's responsibility;
- h. *student*: a student; a future student, a former student, an external student, a future external student or a former external student;
- i. *University*: the University of Twente (UT);
- j. *confidential advisor*: the person referred to in Article 1.12(2) of the Collective Labour Agreement of Dutch Universities.

## **Article 2 Confidential advisor and student counsellor**

1. The University will have confidential advisors who may be utilized by a complainant who is also a staff member. If necessary, the confidential advisor will assist the complainant in filing a complaint. If desired, a complainant who is also a student may utilize the student counsellor.
2. A respondent who is also a staff member may, if desired, utilize one of the University's confidential advisors.

## **Article 3 Filing a complaint**

1. A complaint must be signed and must at least include:
  - a. the name and address of the party filing it;
  - b. the date;
  - c. a description of the conduct against which the complaint is directed;
  - d. the reason for the complaint.
2. The student must file his/her complaint with the UT complaints office. The complaints office will forward the complaint to the Executive Board as soon as possible. Both the staff member and the third party must file his/her/its complaint with the Executive Board.
3. If a complaint is filed with another body besides the one referred to in paragraph 2 of this article, the recipient will forward the complaint to the Executive Board immediately.
4. If the provisions in the first paragraph have not been complied with, the complainant will be given the opportunity to rectify the omission within two weeks. If the provisions in the first paragraph have still not been complied with then, the Executive Board may disallow the complaint.

5. If documents have been written in a foreign language and these must be translated to handle the complaint properly, the party submitting them must arrange for a translation into Dutch.

#### ***Article 4 Confirmation of receipt***

1. The Executive Board will confirm receipt of the complaint as soon as possible, indicating the manner in which and the period within which the complaint will be heard by the complaints committee.
2. The Executive Board may notify the managers of the units where the respondent and the complainant work of the fact that a complaint has been filed.
3. After consulting with the manager(s) of the units where the complainant and/or the respondent work, the Executive Board may take provisional measures.
4. The complaints committee will send the respondent a copy of the complaint letter and any enclosures with it, indicating the manner in which and the period within which the complaint will be heard. The respondent will be given the opportunity to respond to the complaint in writing.

#### ***Article 5 Complaints committee***

1. The Executive Board will charge the complaints committee with hearing and advising on complaints.
2. The complaints committee will advise the Executive Board on:
  - a. the validity or groundlessness of the complaint;
  - b. taking measures;
  - c. other decisions to be taken by the Executive Board.
3. The complaints committee will consist of:
  - A. a chairperson, who will not work under the Executive Board's responsibility;
  - B. a deputy chairperson, who will not work under the Executive Board's responsibility;
  - C. four members, with two members being designated by the UT Labour Union (OPUT) and two members being designated by the Executive Board.
4. The chairperson, deputy chairperson and committee members will be appointed by the Executive Board for a four-year period and may be reappointed immediately.
5. The chairperson, deputy chairperson and committee members may terminate their appointment at any time.
6. The Executive Board may terminate the appointment of the chairperson, deputy chairperson and committee members early, but not until the chairperson or member concerned has been heard with respect to the intended decision.
7. The complaint will be heard by the complaints committee, consisting of a chairperson (or deputy chairperson), a member designated by OPUT and a member designated by the Executive Board.
8. With regard to complaints about intimidation, sexual harassment, aggression, violence or discrimination, the complaints committee may, at its discretion, be supplemented by a confidential advisor active in that area, but not involved in the case. In that instance, the confidential advisor will be the advisor to the complaints committee.

9. The complaints committee will be constituted in such a way that it must be deemed to have sufficient expertise to handle complaints.
10. The Executive Board will designate an executive secretary to assist the complaints committee.
11. The chairperson (or deputy chairperson) and one member must at least be present for a hearing to be held.
12. The chairperson, deputy chairperson and committee members will not participate in the handling of a complaint if their impartiality may be in question.
13. At the request of both the complainant and the respondent, the chairperson, deputy chairperson and/or a committee member handling the complaint may be recused based on facts and circumstances which call into question the impartial handling of the complaint.
14. The complaints committee will perform its duties with the utmost care. The complaints committee must keep confidential any matters which it learns of in this capacity.

### ***Article 6 Not taking up a complaint***

1. The complaints committee need not take up a complaint if:
  - a. the complaint pertains to conduct which occurred more than one year before the complaint was filed;
  - b. the complainant can file or could have filed an objection;
  - c. the complainant can file or could have filed an appeal;
  - d. the complaint pertains to a matter which is being heard by a court;
  - e. the complaint concerns conduct which is the subject of a criminal investigation;
  - f. the complaint was already taken up previously in accordance with the provisions of this complaints procedure;
  - g. the complainant's interest or the seriousness of the conduct is obviously insufficient.
2. The complaints committee will advise the Executive Board on not taking up a complaint.
3. The Executive Board will provide written notice that the complaint will not be taken up to the complainant as soon as possible, but in any event within four weeks of receipt of the complaint.

### ***Article 7 Investigation***

1. The complaints committee will initiate the investigation immediately after receiving the complaint.
2. The complaints committee may freely obtain oral and written information within UT for purposes of the investigation. The complaints committee will furnish any additional information thereby obtained to the complainant and the respondent.
3. Any staff member who is involved and/or examined in complaint proceedings must keep confidential any matters which he/she learns of in connection with the handling of the complaint.

## ***Article 8 Hearing***

1. The complaints committee will give the complainant and the respondent the opportunity to be heard. The hearing will not be open to the public.
2. Unless the complaints committee decides otherwise, stating reasons, the complainant and the respondent will be heard in each other's presence.
3. The complainant need not be heard if:
  - a. the complaint is obviously without merit;
  - b. the complainant has stated that he/she/it does not wish to exercise the right to be heard or
  - c. the complainant has not stated within a reasonable period set by or for the Executive Board that he/she/it wishes to exercise the right to be heard.
4. The complainant may be represented or assisted by someone else. If someone else appears at the hearing on the complainant's behalf, this person must be able to show written authorization from the complainant.
5. The respondent may be assisted by someone else.
6. The complaints committee may examine third parties.
7. A report will be drawn up of the hearing.
8. If the complainant, the respondent and any third parties are examined separately, the complaints committee will enable the complainant and the respondent to state their position on what is stated in the reports.

## ***Article 9 Withdrawal of the complaint***

The complainant may withdraw the complaint in writing. The complaint may also be withdrawn orally during the hearing. The complaints committee will inform the respondent about the withdrawal of the complaint.

## ***Article 10 Addressing the complaint to the complainant's satisfaction***

Once UT has addressed the complaint to the complainant's satisfaction, the obligation to further apply this procedure will be extinguished. The complainant and the respondent will be informed of this in writing as soon as possible.

## ***Article 11 Time periods***

1. The complaints committee will hear the complaint and render advice within 10 weeks after receiving the complaint.
2. The Executive Board will dispose of the complaint within 10 weeks after receiving it. This period may be extended by at most four weeks.
3. The Executive Board will provide written notice of the extension to the complainant and the respondent.
4. A further extension will be possible insofar as the complainant consents to this.

## ***Article 12 Advice***

1. The complaints committee will send the Executive Board a report of its findings, accompanied by the advice and any recommendations. The report will include the report of the hearing.
2. If the complaint concerns the Executive Board or an Executive Board member, the complaints committee will send the report of its findings, accompanied by the advice and any recommendations, to the Supervisory Board. The Supervisory Board will dispose of the complaint with due observance of the time periods referred to in Article 11.

## ***Article 13 Disposal of the complaint***

1. After receiving the complaints committee's report, the Executive Board will notify the complainant and the respondent of the conclusion which the Executive Board has reached. The Executive Board will indicate the ombudsman with whom and the period within which the complainant may then file a petition. The complaints committee will receive a copy of this notice.
2. If the conclusion reached by the Executive Board differs from the complaints committee's advice, the reason for this difference will be mentioned in the conclusion.
3. If this is necessary in the Executive Board's judgment, the manager of the unit where the complainant and/or the respondent work will be informed of the disposal of the complaint.

## ***Article 14 Sanctions***

1. In the conclusion referred to in the previous article, the Executive Board can express the intention to impose a disciplinary measure on the respondent as referred to in Article 6.12 of the Collective Labour Agreement of Dutch Universities.
2. In the conclusion referred to in the previous article, the Executive Board can express the intention to impose a disciplinary measure on the complainant if the complainant deliberately filed a spurious complaint.

## ***Article 15 Rehabilitation***

If a complaint is declared unfounded, the Executive Board can rehabilitate the respondent upon his/her/its request.

## ***Article 16 Final provision***

1. This procedure may be cited as the 'University of Twente Complaints Procedure'.
2. This procedure will take effect on 1 June 2017.

**The Dutch text of this regulation is binding. In case of a difference of interpretation, this translation cannot be used for legal purposes.**

## ***Article-by-article explanation of the UT Complaints Procedure***

### **Article 1**

Complaints may only relate to the way in which UT or a UT body or one or more of UT's staff has/have conducted himself/herself/itself/themselves with respect to the complainant in a specific situation. 'Conduct' will also include a failure to act. The parties filing a complaint may, for example, be other UT employees, other people working at the University's instruction, such as guest lecturers, interns and temporary workers, third parties (or their employees) performing work on UT's premises, and students at and visitors to UT.

### **Article 2**

For information about confidential advisors, please see

<https://www.utwente.nl/en/hr/terms-of-employment/confidential-advisors/confidential-advisors/>

For information about student counsellors, please see

<https://www.utwente.nl/en/ces/sacc/coaching-counselling/counsellors/student-counsellor/#unacceptable-behaviour>

### **Article 3**

**Paragraph 4:** In practice, this two-week period may be deviated from because of special circumstances, such as the complainant's being on holiday.

### **Article 6**

**Paragraph 1, sub b:** In general, a complaint is directed against treatment/conduct which is perceived as inappropriate.

An objection is directed against alleged improper treatment through a decision taken (or the failure to take a decision) on the competent authority's behalf.

### **Article 13**

The manner in which a complaint has been handled may not be appealed or objected to. If a party is dissatisfied with the way in which his/her/its complaint has been dealt with, a complaint may be filed with the National Ombudsman.

### **Article 14**

The Executive Board may also express the intention to impose a disciplinary measure on a complainant that deliberately filed a spurious complaint.

### **Article 15**

'Rehabilitation' refers to measures to rehabilitate the respondent.