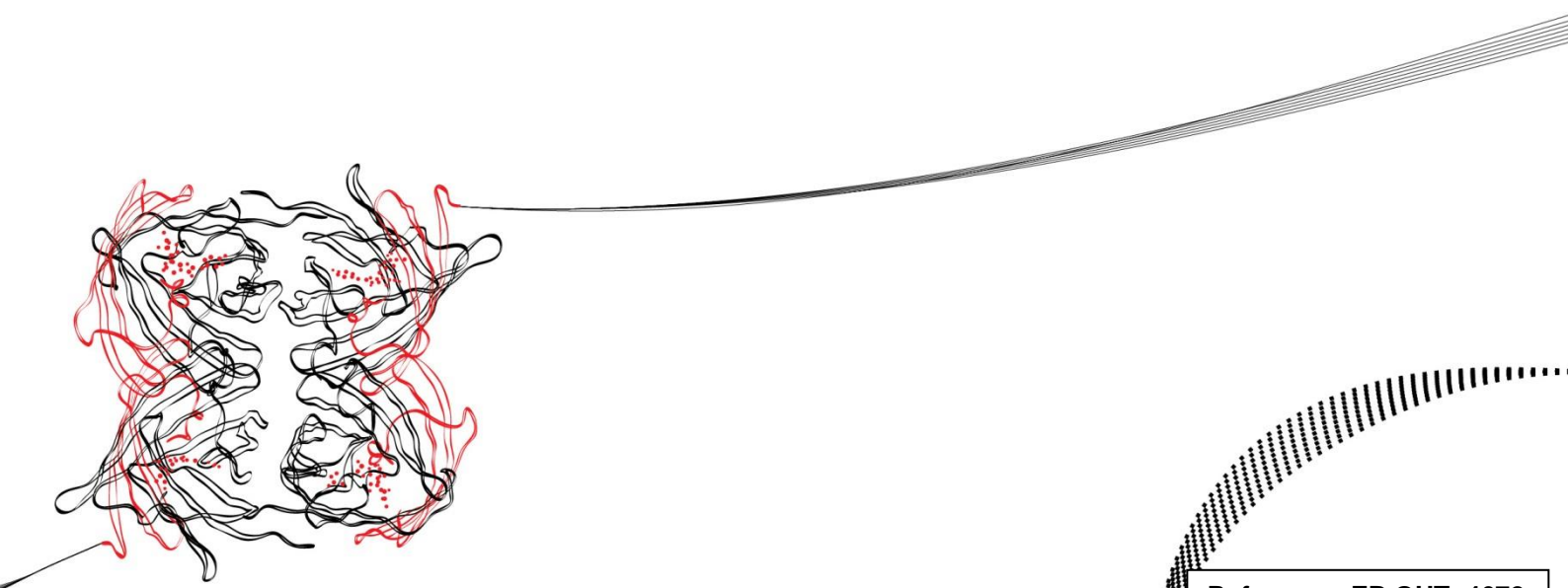
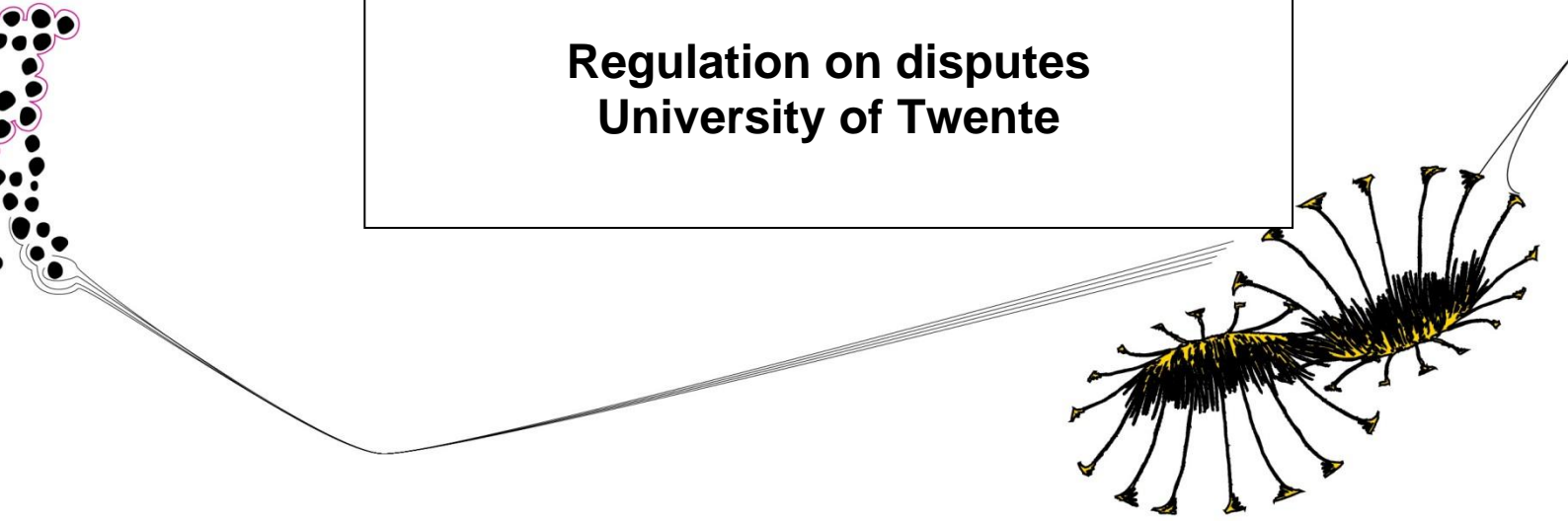


**Regulation on disputes  
University of Twente**



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## Preamble

This Regulation on Disputes of the University of Twente expands on the [Sectoral regulation on disputes for Dutch universities](#). This regulation sets out further procedural/administrative rules within the meaning of Article H.4 (3) of the Collective Labour Agreement (CAO) for Dutch Universities and Article 2 (4) of the Sectoral regulation on disputes for Dutch universities.

## Article 1. Definitions

Unless stated otherwise in the text of the Regulation on Disputes, the following terms have the following meaning:

- a. *Executive Board*: the Executive Board of the University of Twente;
- b. *Employer*: the Executive Board of the University of Twente;
- c. *Employee*: a person who has an employment relationship with the employer based on the CAO for Dutch Universities;
- d. *Committee*: the Disputes Committee of the University of Twente which advises the employer on disputes between an employee and the employer;
- e. *Dispute*: the situation where an employee disagrees with a decision or similar conclusion of the employer about any of the subjects mentioned in Article 3.3;
- f. *Manager*: the person who, on employer's behalf, is in immediate charge of the employee;
- g. *Procedure*: the Regulation on Disputes of the University of Twente;
- h. *Request*: the written request (in paper or electronic form) from the employee to the committee for the handling of a dispute.
- i. *Interested party*: the employee whose rights and/or obligations are directly involved in the dispute.

## Article 2. General

2.1. The employee has the right to raise a dispute by submitting a Request to the Committee.

2.2. The employee can enlist an adviser of his/her choice and at his/her own expense to assist him/her with the preparation, submission and further handling of the Request.

2.3. All employees as well as the employer are obliged to cooperate with the Committee within the reasonable term set for this purpose.

2.4. Everyone involved in the handling of a Request is required to maintain the secrecy of any confidential information entrusted to him/her in this connection. The foregoing is not applicable in the case of a legal disclosure obligation or court proceedings.

## Article 3. Dispute; when and what disputes can be submitted

3.1. A Request can only be submitted to the Committee if the employee is an interested party in the decision or comparable conclusion and after the employee has demonstrably consulted with the manager about this matter without having reached an agreement. The employee can demonstrate this by means of written documents, such as an interview report, email or letter stating the manager's decision, the employee's reaction to that decision and the manager's definite standpoint. If the manager refuses to take a definite standpoint, it is sufficient for the employee to demonstrate that various attempts were made to consult with the manager and that the manager failed to give a substantive response within a reasonable term.

3.2. A Request can be submitted within a term of six weeks after the day on which the decision or comparable conclusion to which the request relates was sent to the employee in writing (in paper or electronic form). If the manager fails to take a definite standpoint, a Request can be submitted within a term of six weeks after the day on which it becomes clear that the manager will not take a definite standpoint.

3.3. A Request can, with due regard to the provisions in the previous paragraph, only be submitted in relation to one of the subjects listed below:

- staff assessment;
- change of position without prior consultation or agreement on this with the employee;
- refusal of promotion to a particular job grade;
- granting, refusal, withdrawal or repayment of study facilities;
- refusal of approval for carrying out ancillary activities;
- compliance with salary arrangements and implementation of the individual choices model;
- compliance with leave entitlements.

3.4. A Request submitted after the term mentioned in the first paragraph will not be declared inadmissible if the employee demonstrates that he/she was not to blame for the late submission and that the Request was submitted as promptly as could reasonably be required.

#### **Article 4. Committee; appointment and composition**

4.1. The Executive Board appoints the Committee.

4.2. The Committee is composed on the basis of equal representation and consists of experts.

4.3. The Committee consists of at least two members and a Chair, optionally supplemented with deputies.

4.4. The Chair, members and deputies are appointed/reappointed for four years. If the Committee is terminated earlier with due regard to the sector arrangements, the appointment is applicable until the date of termination.

4.5. The Executive Board appoints the members/deputy members upon the joint nomination of the employer's representative and the delegation of employee representatives, while the Chair of the Committee is appointed upon the joint nomination of the members of the Committee.

4.6. Persons who fill the following positions within the University of Twente are not permitted to form part of the Committee:

- members of the Executive Board or Supervisory Board;
- members of the Faculty Board;
- directors of service departments;
- members of the University Council, Faculty Council, Service Council and Consultation between the employer and local employees' organisations (*Lokaal Overleg*).
- Ombuds Officer.

4.7. The Committee is supported by a Secretary and can enlist support from expert advisers.

#### **Article 5. Committee; task**

5.1. The Committee deals with Requests and advises the employer on these Requests.

#### **Article 6. Committee; powers**

6.1. The Committee is authorised to gather information from all employees, managers and the employer. It has the right to view all documentation and correspondence that it deems necessary to assess the Request. Employer, managers and employees are obliged to cooperate with any such request from the Committee.

#### **Article 7. Submission of a Request**

7.1. The Request is signed and electronically submitted via *geschillen-hr@utwente.nl* and contains at least:

- a. name, position and address of the employee;
- b. the name of the manager involved in the dispute;
- c. a clear description of the dispute which is the subject of the Request and, if possible, a copy of the disputed decision or comparable conclusion;

- d. the employee's standpoints and reasons for disagreeing with the decision;
- e. the date and employee's signature.

7.2. The secretary investigates on behalf of the Committee Chair whether the conditions of both the Sectoral regulation on disputes for Dutch universities and this Regulation on Disputes have been met. If any of the requirements mentioned in Article 7.1 have not been met, the employee is given an opportunity to remedy this omission within a reasonable set term.

7.3 The submission of a dispute to the Committee does not suspend the employer's decision.

7.4. The Secretary confirms the receipt of a Request to the employee.

### **Article 8. Handling of the Request**

8.1. If the case does not concern a situation as described in Article 8.4, the Committee will proceed to deal with the substance of the Request. This is done in accordance with the following procedure.

8.2. The Committee informs the manager of the Request. The manager is given an opportunity to submit a written defence within a reasonable set term.

8.3. The Committee gives the employee and the manager an opportunity to be heard, either on their request or if the Committee considers this necessary. On request, the manager and/or employee can bring along witnesses and experts to be heard; they must inform the Committee Secretary of this in advance. The hearing will in principle take place in the physical presence of the interested parties. A digital hearing is only possible if external circumstances make this necessary, provided the employee gives his/her consent. If there are compelling reasons, parties can be heard separately. In that case, each party is informed of the contents of the hearing at which they were not present. Due to the confidential nature of the disputes, the hearing is not public. The chairman can allow third parties to attend the hearing with the permission of the employee and the manager.

8.4. A Request will not be considered if:

- a. an omission as referred to in 7.2 is not remedied within the set term;
- b. it is evidently not admissible or unfounded with analogous application of the requirements of the Dutch General Administrative Law Act (*Algemene wet bestuursrecht*);
- c. no consultation has demonstrably taken place between the employee and the manager about the subject of the dispute;
- d. a different internal formal procedure is more appropriate for handling the dispute;
- e. the same fact or same event is, or was previously, the subject (in whole or in part) of a different internal or external procedure.

8.5. If the Committee Chair concludes that a dispute need not be considered on any of the grounds mentioned above in 8.4, the dispute is dismissed by the Chair without hearing the employee or employer and without a further oral hearing. The Chair's decision is communicated in writing (in paper or electronic form) to the employee and the employer.

8.6. Up to ten days before the hearing, the employee and/or manager can submit further documents. The Secretary will ensure that the documents are sent electronically to the Committee members and parties.

8.7. If the employee and/or manager fails to appear, the Chair will verify that he/she was summoned in the proper manner. If that is the case, the handling of the dispute can proceed in the absence of that party.

8.8. Informal correspondence from the Committee to a party who does not master the Dutch language takes place in English. The hearing is held in the Dutch language. If at least one of the parties in the case has insufficient knowledge of the Dutch language, the University of Twente will, as a good employer and in keeping with the Official Language Policy, enlist a sworn interpreter under its own responsibility and at its own expense. The Committee Secretary will arrange the interpreter. If the Committee deems this necessary for a proper handling of the dispute, the employee will arrange for

the documents to be translated into the Dutch language. After the procedure, the University will refund the incurred translation costs to the employee whose dispute is declared wholly or partly well-founded, on condition that an itemised invoice from the translation agency is presented for these costs. This refund is capped at a maximum fee per translated word corresponding with the highest fee per word that the Executive Board has agreed with its translation partners for a translation from English into Dutch (in 2020 € 0.19 per word excl. VAT).

8.9. Before the hearing, the recusal of a Committee member participating in the hearing may be requested on the grounds of facts or circumstances that may compromise the Committee member's impartiality. Parties will inform the Secretary of any such objections before the hearing. A Committee member can also recuse him/herself from the hearing on the grounds of such facts or circumstances. Other Committee members participating in the hearing will decide as quickly as possible whether the recusal or self-recusal will be permitted. In the event of a tied vote, the request is permitted.

#### **Article 9. Advice of the Committee**

9.1. The Committee advises the employer whether it was able to arrive at the disputed decision or conclusion in a reasonable and fair manner. The advice comprises a recommendation, with reasons, to the employer concerning the decision to be taken. The Committee's advice is issued in writing (in paper or electronic form) and contains a report of the hearing if the parties were heard.

9.2. The advice is intended for the Executive Board and drawn up in the Dutch language.

9.3. The Committee issues advice within eight weeks of receiving the Request. The Committee can decide to extend the term by a maximum of four weeks. If the employee agrees, a further extension of the term is permitted.

#### **Article 10. Decision of the employer**

10.1. The employer makes a decision within four weeks of receiving the Committee's advice and informs the employee and manager of its decision in writing (in paper or electronic form). This term can be extended by a further four weeks. If the employee agrees, a further extension of the term is permitted.

10.2. The decision, including appendices comprising the Committee's advice and the report of the hearing, are drawn up in the Dutch language. If any of the parties in the case is a non-Dutch speaker, these documents are translated into English by a translation agency enlisted by and at the expense of the University of Twente; the Dutch text is binding.

10.3. If the decision diverges from the Committee's advice, the reason for this divergence is given in the decision.

#### **Article 11. Committee; accountability reporting**

11.1. The Committee reports annually on the work performed to the employer for the purposes of the annual report.

11.2. The Committee members as well as any experts consulted or advisers enlisted by the Committee are required to maintain the confidentiality of any knowledge acquired in that capacity.

#### **Article 12. Protection of interested parties**

12.1. The submission of a Request pursuant to the Sectoral regulation on disputes for Dutch universities cannot lead to any direct or indirect disadvantage for the employee, unless the employee did not act in good faith. The same applies to witnesses and experts.

#### **Article 13. Unforeseen cases**

13.1. The Committee decides in cases not provided for in this Procedure.

13.2. Any significant addition or amendment to this Procedure that the Committee considers necessary will be put to the parties represented in the consultation between the employer and local employees' organisations (*Lokaal Overleg*) for a decision.

#### **Article 14. Final provision**

14.1. This Procedure takes effect on 1 January 2020. In the case of disputes that arose between 1 January 2020 to the date on which the Executive Board adopted this Procedure, the 6-week term as referred to in Article 3.2 of this Procedure starts on the date of adoption by the Executive Board.

14.2. This Procedure does not apply to disputes about decisions made before 1 January 2020 under the Dutch General Administrative Law Act (*Algemene wet Bestuursrecht*) which were open to objection and appeal.

14.3. The Procedure is the local procedure mentioned in Article H.4 (3) of the CAO for Dutch Universities for the implementation of the Sectoral regulation on disputes for Dutch universities. The Procedure cannot be seen separately from the Sectoral regulation on disputes. Any amendments to the Sectoral regulation on disputes will lead to corresponding amendments in the Procedure. The operation of the Sectoral regulation on disputes will be reviewed by the CAO parties no later than the second quarter of 2021.

This Procedure was adopted by the Executive Board on 1 November 2020, after discussion by the consultation between the employer and local employees' organisations (*Lokaal Overleg*) on 17 September 2020 and written agreement between parties in the consultation between the employer and local employees' organisations (*Lokaal Overleg*) on 7 October 2020.

***This translation is meant as a service to non-Dutch speaking employees of the UT. However, in case of a difference of interpretation, these translations cannot be used for legal purposes. In those cases the Dutch text is binding.***