

STUDENT OMBUDSMAN REGULATIONS

regulations under Article 2.3 section 2 URVU

Article 1 Definitions

The following definitions apply in these regulations:

- VU: VU University Amsterdam;
- ombudsman: the student ombudsman as referred to in Article 2.3 section 1 URVU;
- applicant: the person submitting an application pursuant to Article 3 section 1;
- investigation: an investigation as intended in Article 3 section 1;
- body: the Executive Board, a Faculty Board or the head or director (as applicable) of Administrative and Support Services, the library or of an institute as referred to in Article 5.11. URVU.
- Student Council: the Student Council of the university, as referred to in Article 8.2 section 2 of VU Amsterdam Statutes.

Article 2 Ombudsman

1. The ombudsman is appointed by the Executive Board, after hearing the Student Council, for a period of three years. He can be reappointed.
2. The role of ombudsman is irreconcilable with any other position within VU Amsterdam and with any other activity on behalf of VU Amsterdam.
3. The ombudsman is not subordinate to any body in the fulfilment of his task.
4. The Executive Board ensures that the position of the ombudsman is not adversely affected in any way by the performance of his duties.
5. The Executive Board may relieve the ombudsman of his duties before the end of his term if his actions or omissions damage the required trust in his competence.
6. The Executive Board appoints - after consulting with the Student Council - a deputy for the ombudsman as soon as it becomes likely that the latter will be unable to perform his duties for an extended period of time.
7. The deputy of the ombudsman assumes office at a time to be determined by the Executive Board. He remains in office until the ombudsman resumes his duties or a new ombudsman assumes office.

8. The Executive Board provides the ombudsman with the means necessary for the proper performance of his duties.

Article 3 Request for investigation

1. Students of VU University Amsterdam who, in that capacity, make use of its facilities, students of Amsterdam University College, PhD students without a contract of employment with VU University Amsterdam including external students, have the right to make a written request to the ombudsman to instigate an investigation into the manner of their treatment by a body regarding a certain matter.

2. An action of a person working under the responsibility of a body is regarded as an action of that body.

Article 4 Written Request

1. The written request must contain:

- a. the name and address of the applicant;
- b. the date;
- c. a description of the action prompting the request and the name of the body or person who has acted in this way;
- d. the reason why the applicant objects to said action;
- e. the applicant's signature.

2. If the request is written in a foreign language and a translation into Dutch is necessary to enable a proper handling of the request, the applicant must provide this translation.

3. The ombudsman confirms the receipt of the written request within seven days.

4. The written request can be withdrawn at all times, in which case the procedure under these regulations shall be discontinued and the ombudsman will accordingly inform those involved.

Article 5 Scope

1. The ombudsman is not authorized to instigate an investigation if:

- a. the written request does not meet the requirements outlined in Article 4 sections 1 and 2;

- b. more than one year has passed since the action prompting the written request took place;
- c. the written request is, in the opinion of the ombudsman, evidently unfounded;
- d. the interest of the applicant or the seriousness of the action is, in the opinion of the ombudsman, evidently insufficient;
- e. the applicant is not the person against whom the action took place;
- f. the matter mentioned in the written request is in line with the general policy of VU Amsterdam or of the body in question;
- g. if the applicant has failed to make use a complaints, objection or appeal procedure that is or was available for the action in question under or pursuant to VU Amsterdam Statutes or the law.
- h. the ombudsman has already given a verdict on this complaint.

2. If the ombudsman does not instigate an investigation on the grounds of section 1, he must notify the applicant of this in writing within fourteen days of receiving the written request, stating reasons. If no investigation is carried out because a procedure as intended in subsection g. of that section is available, he shall mention the body authorized to handle such matters.

Article 6 Standpoints and explanations

1. The ombudsman gives the body or person mentioned in the written request and the applicant an opportunity to set out and/or explain their standpoint in writing or orally, either separately or in each other's presence, depending on which the ombudsman deems preferable.
2. The ombudsman can present the written request to others if he deems this necessary for a proper assessment and may request said persons to give their opinion on the matter in written or oral statements. Those involved are obliged to comply with such a request within the term set by the ombudsman.
3. The ombudsman ensures that the other party receives a copy of a written standpoint as intended in section 1 or of a written statement as intended in section 2 as soon as possible after receipt. In the case of an oral standpoint as intended in section 1 or an oral statement as intended in section 2, a report will be made by the ombudsman and sent to both parties.

4. Members of staff who are involved in the investigation are obliged to treat any information that may become known to them as a result of their involvement in the case in strict confidence, insofar as this does not impede their handling of the case.

Article 7 Information

1. The ombudsman is authorized to request information within VU Amsterdam as well as to obtain and inspect documents relating to his investigation. Those involved are obliged to comply with such a request from the ombudsman within the term set by him. They are not authorized to provide information and/or documents classified as confidential. They can require the ombudsman to maintain confidentiality in relation to information and/or documents whose confidentiality must in their opinion be protected as a matter of overriding importance. Access to personal details is subject to written permission from the person involved.

2. The ombudsman informs the body or the person named in the written request and the applicant of a request as intended in section 1 as well as the outcome of that request.

Article 8 Experts and visits

1. The ombudsman may enlist experts to assist his investigation.

2. The ombudsman may, without requiring permission, access all places where the body or person mentioned in the written request fulfils its/his duties if this is necessary in his opinion to conduct a proper investigation.

Article 9 Assessment

The ombudsman assesses whether or not the body or person named in the written request has acted properly in the matter under investigation.

Article 10 Report

1. After concluding his investigation, the ombudsman draws up a report outlining his findings and opinion. He can make recommendations in the report.

2. The ombudsman sends his report in all events to the applicant, the body or person mentioned in the written request, and the Executive Board and also, where applicable, to the head of the unit involved.

3. If the report contains recommendations, the body or person involved informs the ombudsman within four weeks of receiving the report whether and, if so, in what way it proposes to act on these recommendations. Reasons must be given if a recommendation is not to be acted upon.

4. The ombudsman shall, upon request, provide anyone with an anonymized copy of the report.

Article 11 Confidentiality

The ombudsman is obliged to treat any information that may become known to him while handling this case in strict confidence, insofar as this is possible given the nature of the case and without prejudice to the provisions of Article 7 Section 1, fourth sentence. This obligation also applies to all persons working for him. The ombudsman is, however, released from his obligation to confidentiality in the event of a situation which, in the estimation of the ombudsman, may endanger the lives of third parties.

Article 12 Objection or appeal

No objections or appeals can be lodged against a decision of the ombudsman regarding the handling of a request as intended in Article 3 section 1.

Article 13 Annual Report

The ombudsman annually produces a report on his activities. The report shall in all events state the number of cases dealt with and provide anonymized summaries of these cases. He shall in all events send the report to the Executive Board, the College of Deans and the Student Council. The report shall be made generally available.

Article 14 Amendment and Entry into Force

1. These regulations may be amended by the Executive Board. Decisions in respect to amendments will be taken on the advice of the Student Council.
2. These regulations will enter into force on 01-04-2010. They are set down in the decision of the Executive Board dated 01-02-2010.

Explanation

Article 1

Among other things, this Article defines the term body. This includes the governing bodies active at our university: at top level this is the Executive Board and at middle level the Faculties'

Boards. In addition, this includes the management of the other large administrative-organizational units, namely the Registrar at Administrative and Support Services, the librarian at the library and the directors of the special-status institutes within VU Amsterdam (CIS, CETAR and RNC), including the Blaise Pascal Institute. The regulations (see also Art. 3) concern the actions of said administrative bodies and superiors as well as persons working directly or indirectly under their responsibility.

Article 2

sections 2, 3 and 4. The ombudsman has an independent position within VU Amsterdam. Independence is essential for the proper performance of the role. For this reason, the person fulfilling the role cannot perform any other tasks alongside this office and has no hierarchical relationship with any body or person. The Executive Board must ensure that the position of the ombudsman is not adversely affected in any way by the performance of his duties. This provides an extra guarantee for his free and independent movement within the organization.

section 5. Trust is inherent to the proper performance of the role of ombudsman. The ombudsman may therefore be expected to avoid any actions or omissions that may seriously damage this trust. If the Executive Board is of the opinion that this trust has been/is being seriously damaged, it may relieve the ombudsman of his duties. Dismissal would not be appropriate; relief from duties can be seen as a form of suspension.

section 6. It is advisable for the Executive Board to appoint a deputy ombudsman as soon as the ombudsman is expected to be unable to fulfil his duties for an extended period of time, e.g. due to illness. The advantage of formally appointing a deputy is that the work of the ombudsman can be continued from the same position of independence.

section 8. The Executive Board provides the ombudsman with sufficient means and resources for the proper performance of his duties. This at least includes financial means, equipment and a workspace.

Article 3

section 1. Anyone who studies at VU Amsterdam and, as such, makes use of the (educational) facilities of the university, including the external students, is entitled to request the ombudsman to instigate an investigation. This goes further than every 'student', i.e. anyone formally enrolled at VU Amsterdam as a student. The reason for this is that VU Amsterdam not only has standard students but also many non-standard students, such as subsidiary subject students, contract students, foreign students and elderly (HOVO) students. Though not formally students, they also make use of the

(educational) services of VU Amsterdam. To ensure that all enjoy equality in law, both standard and non-standard students must have the right to request an investigation.

The subjects that can be put to the ombudsman have also been defined in broad terms, i.e. actions 'in a certain matter'. This may concern issues relating to education, research, facilities, but also matters regarding organization and treatment in a wider sense. The request – also referred to in this explanatory note as 'complaint' – concerns the manner in which a body has 'acted' towards the person involved. This includes all types of actions or omissions. In addition, refraining from action while the situation demands this or failing to take a decision concerning a request is also regarded as an action.

The ombudsman can only instigate an investigation on the basis of a written request as provided for in Art. 4. However, complaints from students need not always lead to a formal investigation. In certain cases, a student may prefer a 'lighter' approach and put his complaint to the ombudsman in an informal manner (either orally or in writing). He can then try to resolve the issue quickly and directly through mediation. This is only possible if all parties to the conflict

agree to this procedure. If the mediation is successful, no formal investigation need be carried out. In addition, a student may turn to the ombudsman for advice as to how he can resolve the complaint (himself), without wanting to seek assistance at 'higher' level. In this case the ombudsman does not undertake any action himself.

section 2. An action of an individual employee can also be put to the ombudsman for assessment. This concerns an action performed by the employee in the course of his duties. This action is regarded as an action of the body under whose responsibility the employee is working. Persons seconded to VU Amsterdam also fall within the scope of this Article.

Article 4

section 4. An applicant may withdraw a submitted request if he has reason to do so e.g. because the body has meanwhile met his objections. The grounds for the investigation are thus eliminated and these regulations will cease to apply. The ombudsman must inform parties of this.

Article 5

section 1. If all conditions have been met, the ombudsman is obliged to meet a request for an investigation. Section 1 provides for exceptions to this obligation: if the circumstances outlined in that section occur, the ombudsman not only has the choice but the obligation not to instigate an investigation.

(a). If a written request does not meet the requirements of Art. 4 sections 1 and 2, this is sufficient reason not to instigate an investigation. This could concern e.g. the

absence of essential details, such as the name of the applicant or the respondent. Anonymous requests will not be accepted for consideration.

(b). A limit must be set on the term during which a body or person can be confronted with a complaint about an action from the past. A year seems a reasonable term. If more than one year has passed since the action prompting the request, the ombudsman shall not instigate an investigation.

(c) and (d). The ombudsman does not have the authority to take a written request into consideration if the circumstances of c and d occur. The provisions concern complaints where it is clear in advance that the applicant has no reasons for complaint. This also includes matters of minor importance. In addition the applicant must have an interest in requesting an investigation.

(e). The rule is that the person against whom the action has taken place submits the request himself. It is not the intention that a different person submits a complaint about the action. Exceptions can be made to this rule, e.g. when the aggrieved person's legal representative or authorized is acting on his behalf in this connection.

(f). The ombudsman refrains from carrying out investigations in matters concerning the general policy. The ombudsman has no tasks relating to general policy affairs.

(g). The ombudsman's scope is delimited by existing (legal) complaints, objection and appeal procedures. The ombudsman regulations are designed to provide a supplementary arrangement and are not intended to replace existing procedures. Where the student can pursue his complaint through an alternative procedure, the ombudsman shall refrain from an investigation. The ombudsman is also not authorized to act in cases where the student could have made use of an alternative procedure but has failed to do so.

section 2. If the ombudsman is not authorized to instigate an investigation, he shall notify the applicant (unless, of course, his name is not known) of this as soon as possible, stating reasons. If an alternative procedure is available to applicant, the relevant institution will also be mentioned in this notification.

Article 6

section 1. This section outlines the adversarial system of law where each party has an opportunity to give its/his reading of the events. The body or person whose action prompted the request is notified of the submitted written request – by means of a copy of the request that is sent to it/him – and is given an opportunity to give its/his standpoint. The applicant receives an opportunity to explain his standpoint. Both parties are given an equal opportunity to put forward and explain the facts and arguments. They can express their preference for the way in which this should take place – orally, in writing or in each other's presence – but the ultimate decision in this connection rests with the ombudsman. This also presents an opportunity to resolve the complaint at an early stage via mediation. Mediation can take place on the request of

(one of) the parties but also at the ombudsman's proposal. The use of mediation is subject to the agreement of all parties to the conflict.

section 2. To ensure a careful assessment of a submitted written request, it may be necessary to inform third parties of the matter and to obtain a statement from them regarding the complaint. They are obliged to cooperate with this.

Article 7

section 1. Apart from hearing third parties, the ombudsman can request (governing) bodies, institutions and individuals within VU Amsterdam to provide information and give access to documents relating to his investigation. These individual persons not only comprise employees of the university but also others working there on the basis of e.g. secondment. Those involved are required to cooperate, but this cooperation may be limited by confidentiality obligations imposed by third parties or applicable regulations. A person may also decide that, in view of their nature, information or documents may exclusively be provided to the ombudsman on a strictly confidential basis. In connection with the obligation to protect privacy, personal details may only be inspected with the permission of the person involved. This permission must always be given in writing.

Article 8

section 1. This provision provides for the enlistment of the expertise of an expert if this is necessary to form a proper opinion.

section 2. The ombudsman may need to take stock of the on-site situation to assess what actually happened. Section 2 gives the ombudsman the necessary powers to carry out visits for this purpose.

Article 9

The investigation of the ombudsman concerns the manner in which the body or person in question has acted. The investigation leads to an opinion about the propriety or impropriety of the action.

Article 10

section 1. When the ombudsman has completed his investigation, he draws up a report outlining the investigative actions and findings underlying his opinion. The ombudsman can attach recommendations to his opinion and thus make suggestions for remedying the consequences of an improper act and/or to avoid any future recurrence.

section 2. The applicant naturally receives the report but so does the body or person named in the written request. Where the investigation concerns a person, i.e. an individual employee, the report is also sent to his immediate superior. The Executive Board receives the report in all cases.

section 3. The opinions of the ombudsman ('the decisions') are not legally binding. This also applies to any recommendations attached. Nevertheless, the reasonable course is to follow the ombudsman's decision. Only overriding, policy-based arguments can provide a sound reason for not following a recommendation.

section 4. Reports of the ombudsman are public. Anyone who so wishes can receive an anonymized copy of an issued report.

Article 11

This Article provides for the confidentiality obligation of both the ombudsman himself and anyone assisting him, e.g. with the preparation of the report.

Article 12

The independent position of the ombudsman entails that his decisions cannot be disputed under any complaints or appeal procedure applicable at VU Amsterdam.

Article 13

Every year the ombudsman publishes a report on his work. This is available to everyone free of charge, and is sent in all events to the Executive Board, the College of Deans (as the most important advisory board in the field of education and research) and to the Student Council

Article 14

section 1. Where the Executive Board adopts the Student Ombudsman Regulations according to Art. 2.3 section 2 URVU after obtaining advice from the Student Council, it is reasonable that any amendment to the regulations are also adopted after obtaining advice from the Council.