

Joint Complaints Procedure against Undesirable Conduct

Section 1 General provisions

Article 1 Definitions

In this Procedure, the terms below are defined as follows:

- a. Procedure: the Joint Complaints Procedure against Undesirable Conduct of Zuyd University of Applied Sciences, Open Universiteit of the Netherlands, and Maastricht University
- b. Undesirable conduct: undesirable conduct includes sexual harassment, aggression and violence, bullying and intimidation, and discrimination that cause stress under conditions directly relating to studying or working at the institution
- c. Stress: a condition that has physical, psychological, or social consequences perceived as negative
- d. Sexual harassment: any form of verbal, non-verbal, or physical behaviour with a sexual connotation with the purpose or effect of violating the dignity of a person, particularly when it creates an intimidating, hostile, degrading, humiliating, or offensive situation
- e. Intimidation: verbal, non-verbal, and physical behaviour with which a person tries to influence another person by frightening that person
- f. Aggression and violence: incidents in which a student or employee is physically, psychologically, or verbally harassed, threatened, or attacked
- g. Bullying: forms of intimidating or other sustained behaviour by one or more students or employees directed at a student or group of students or an employee or group of employees
- h. Discrimination: making a distinction based on religion, personal beliefs, political opinions, race, gender, or on any ground without an objective justification
- i. Complaint: an expression of dissatisfaction about the way in which the Executive Board or one of its employees, or a student has displayed undesirable behaviour towards the complainant in a particular situation
- j. Notice of Complaint: the written expression of the complaint that complies with the requirements of Article 13 of this Procedure
- k. Complainant: the person submitting a complaint about undesirable conduct
- l. Accused: the person against whom the complaint is directed
- m. Relevant Party: any person directly or indirectly involved in the handling of the complaint by the Complaints Committee
- n. Complaints Committee: the Complaints Committee for Undesirable Conduct as referred to in Section 2 of the Procedure
- o. Student: the student, future student, external student, short-course participant, or attendee that is or was registered with the institution
- p. Employee: the person who works, has worked, or will become employed at the institution under the responsibility of the Executive Board by virtue of an employment contract or on another basis
- q. Institution: the institutions mentioned in sub-paragraph a, and any other institutions that become a party to this Procedure in accordance with Article 29
- r. Executive Board: the Board responsible for managing one of the institutions. If a complaint is directed against the Board responsible for managing, Executive Board should be understood to mean Supervisory Board
- s. Institutional Procedure: the procedure(s) for undesirable conduct at the institution, insofar as applicable.

Article 2: Scope

1. This Procedure applies to students and employees who are or have been confronted with undesirable conduct, subject to the institutional procedure.
2. This Procedure does not apply if the undesirable conduct occurred more than three years before the notice of complaint was filed unless the notice of complaint concerns sexual harassment for which the limitation period under the Dutch Criminal Code is decisive.
3. This Procedure takes precedence only if there are inconsistencies between this Procedure and an institutional procedure. The provisions of the institutional procedure must then be read in the light of this Procedure.

Article 3 Confidentiality

1. Complaints submitted and dealt with under this Procedure are confidential and will be treated confidentially by the Complaints Committee and all relevant parties.
2. Under the Procedure, all relevant parties must maintain confidentiality outside the Complaints Committee's investigation regarding all the information that is discussed with them and all the information relating to the complaint that is known to them.
3. If a breach of confidentiality of the complaints procedure occurs, the Complaints Committee may reasonably attach appropriate consequences to the complaints procedure.

Article 4 Tasks and powers of the Executive Board

1. The Executive Board submits complaints as referred to in Article 1, sub-paragraph j to the Complaints Committee for handling and advice.
2. The Executive Board ensures that the members of the Complaints Committee have and retain a sufficient level of expertise.
3. The Executive Board offers the Complaints Committee the facilities needed to handle and settle complaints involving the institution.
4. The Executive Board contributes towards the costs incurred for the purpose of this Procedure. All costs are payable by the institution where the complaint is filed.
5. The Executive Board appoints a contact person who can be contacted by the secretary or a deputy secretary for the purpose of handling and settling complaints involving the institution.

Section 2 Complaints Committee**Article 5 Requirements for members of the Complaints Committee**

1. The chairperson and deputy chairperson of the Complaints Committee:
 - a. are lawyers
 - b. have ample experience in chairing a committee
 - c. have an affinity with the regulations on the branch of law relating to undesirable conduct
 - d. are not employed or have not been employed at one of the institutions in the five years preceding their appointment
 - e. demonstrate impeccable behaviour.
2. The members of the Complaints Committee:
 - a. have visibility and knowledge of the teaching environment
 - b. possess sufficient psychosocial and legal knowledge in relation to undesirable conduct
 - c. are not employed by the institution involved in the complaint
 - d. demonstrate impeccable behaviour.

Article 6 Composition of Complaints Committee

1. The Complaints Committee consists of:
 - a. a chairperson and deputy chairperson, both of whom are also members
 - b. at least two members from each participating institution
 - c. for institutions wishing to make use of this option when dealing with complaints from students: a student member and a deputy student member from the relevant institution.
2. The Complaints Committee always holds sessions in a panel of three members, including the chairperson.
If the Executive Board so wishes and insofar as the complaint has been submitted by a student, the Complaints Committee can also include a student member from the institution involved in the complaint.
3. If the vote is tied when the second sentence of paragraph 2 is applied, the chairperson has the casting vote.
4. The Complaints Committee is supported by a secretary of one of the institutions or a deputy secretary of one of the institutions.

Article 7 Composition of the panel for complaint handling

1. The chairperson puts together a Complaints Committee panel in consultation with the secretary.
2. The aim is to have a diverse panel, on the understanding that the members, with the possible exception of any student member, are not employed by the institution involved in the complaint.

Article 8 Impartiality and independence

1. The Complaints Committee is impartial and independent of the institutions and their executive boards. It forms an independent opinion on the facts and circumstances that have led to the complaint and does so on the basis of establishing the truth.
2. A member of the Complaints Committee must recuse themselves from the composition of a panel if facts or circumstances exist that would compromise the impartiality of the Complaints Committee. Recusal always occurs if a member knows one of the relevant parties privately or has a family relationship with one of relevant parties, or if a member believes that there should be a recusal for another reason.

Article 9 Appointment and discharge of Complaints Committee

1. The Executive Boards of the institutions appoint the chairperson and deputy chairperson for a period of five years and the members and deputy members for a period of three years. In principle, these parties can be reappointed once.
2. A student member and deputy student member are appointed and discharged in accordance with the internal procedure of the institution wishing to involve students in the handling of a complaint submitted by a student.
3. The Executive Boards appoints the secretary and deputy secretary for a period of three years.
4. The institutions will grant discharge to the chairperson or a committee member at their request.
5. After consultation between the institutions, the chairperson or committee member will be discharged from their position if:
 - a. on the grounds of illness or shortcomings, they are found permanently unfit to fulfil their position or no longer meet the requirements as referred to in Article 5
 - b. they are convicted of a criminal offence by a final court decision
 - c. they have reached the age of seventy, with effect from the following month or, if they are a member of a panel at that time, after the Complaints Committee has issued its opinion to the Executive Board.

Before a discharge is granted on the grounds of sub-paragraph a or sub-paragraph b, the chairperson or member subject to this intended discharge will be notified and given the opportunity to have their say on the matter.

Article 10 Tasks and powers of the Complaints Committee

1. This Procedure defines the scope of the Complaints Committee's powers.
2. The Complaints Committee investigates the admissibility and merits of a complaint.
3. The Complaints Committee may gather information from all employees and bodies of the institution involved in the complaint. It may request access to documents that it considers relevant to issuing its opinion, and it may attach substantive and procedural consequences to failing to comply with its requests in time or at all.
4. The Complaints Committee may set procedural deadlines and, where provided for in this Procedure, suspend proceedings.
5. If required, the Complaints Committee draws up a list of internal regulations relating to its activities.
6. If a notice of complaint does not yet meet all the requirements set out in Article 13, the Complaints Committee will give the complainant the opportunity to supplement their complaint.
7. The Complaints Committee investigates a complaint, interviews the relevant parties that it considers to be of significance, and subsequently submits a report of its findings and a written opinion to the Executive Board involved in the complaint.
8. The secretary ensures, on behalf of the Complaints Committee, that the file is handed over to the contact person of the institution involved in the complaint for archiving once the complaint has been settled.
9. The Complaints Committee evaluates its activities and adjusts its working method, where necessary. For this purpose, the Complaints Committee convenes a plenary meeting once a year to which all members, the chairperson, deputy chairperson and secretaries are invited.
10. The Complaints Committee draws up an annual report every year, in which it accounts to the institutions in retrospect for its working methods, the number of anonymized or other complaint proceedings initiated and the outcome of those anonymized or other complaint proceedings, including the anonymized or other complaints not considered. The annual report is addressed to the Executive Boards and the participation bodies or the local consultative body of the institutions.
11. The Complaints Committee can advise the Executive Board to amend this Procedure.

Section 3 Submitting a complaint

Article 11 Rights of the complainant and accused

1. The complainant may submit a complaint to the Complaints Committee if their complaint has not been dealt with satisfactorily by their own institution.
2. The complainant and the accused are entitled to assistance.
3. The complainant and the accused have the right to be informed by or on behalf of the Complaints Committee about the status of the complaints procedure.
4. The complainant and the accused have the right to be heard orally. Article 21 then applies.
5. The complainant and the accused may indicate in writing that they wish to waive their right to be heard.
6. If there are several complainants or accused, they all enjoy the same rights.

Article 12 Rights of the relevant parties

1. If relevant parties other than those referred to in Article 11 are part of the complaint proceedings, they are entitled to assistance.
2. The Complaints Committee may determine that the relevant parties as referred to in the first paragraph have the right to be heard orally. The provisions of Article 21 then apply.

Article 13 Submitting the complaint and initiating the complaints procedure

1. A complaint is submitted by a notice of complaint in accordance with the proceedings established at the institution, or the provisions of the institutional procedure.
2. The notice of complaint must be in writing and signed. The notice of complaint must be submitted by or on behalf of the complainant with the institution's Executive Board or directly addressed to the Complaints Committee.
3. The notice of complaint must at least contain:
 - a. the complainant's first name and surname and the contact details at which the Complaints Committee can reach the complaint
 - b. the date
 - c. a description of the confrontation with the undesirable conduct
 - d. the essence of the complaint(s).In addition, the complaint includes, where possible:
 - e. the accused's name and address
 - f. when the undesirable conduct occurred
 - g. a description of any steps already taken, including contact with the confidential adviser and any additional steps under the applicable institutional procedure
 - h. written documents that can serve as evidence of the undesirable conduct.
4. The notice of complaint may contain several complaints or parts of complaints. In that case, the Complaints Committee must examine each of these complaints or parts of the complaint either separately or in conjunction with each other.
5. In principle, the notice of complaint is the only written opportunity for the complainant to substantiate the complaint unless the provisions of Article 20 apply.

Article 14 Language

1. A notice of complaint must be drawn up and submitted in Dutch or submitted together with a translation into Dutch.
2. If an institutional procedure stipulates that the notice of complaint can also be drawn up in a language other than Dutch, the institution must arrange for the documents in the complaint proceedings to be translated from the other language into Dutch and vice versa, if and insofar as this proves necessary.

Article 15 Admissibility

A notice of complaint is inadmissible if:

1. the complaint is not against a student or employee as referred to in Article 1
2. the Complaints Committee has previously investigated or considered the complaint
3. the undesirable conduct is unrelated to the work or study situation
4. the subject of the complaint is already the subject of other complaint proceedings or another administrative or judicial dispute instituted by the complainant
5. the complainant has already reported the conduct complained against to the police
6. the conduct against which a complaint is or will be directed is also the subject of criminal proceedings or has been investigated on the public prosecutor's orders.

Section 4 Complaints procedure

Article 16 Confirmation of receipt

1. After receiving a complaint, the Executive Board immediately forwards it to the Complaints Committee.
2. If a notice of complaint has been submitted directly to the Complaints Committee, the Complaints Committee merely informs the Executive Board about having received a complaint and not yet about the content of the complaint. If the complaint is against the Executive Board or one of its members, the Complaints Committee informs the supervisory body of the institution instead of the Executive Board.
3. The Complaints Committee confirms receipt of the notice of complaint to the complainant in writing and initially investigates the admissibility of the complaint. If it is insufficiently clear whether the complainant has consulted other relevant parties such as the confidential adviser, the Complaints Committee must still ascertain this. It may set the complainant a reasonable deadline for this purpose.
4. If a notice of complaint does not yet meet all the requirements set out in Article 13, the Complaints Committee will give the complainant a reasonable period of at least ten days in which to supplement their complaint. If the complainant fails to remedy the defects in the notice of complaint within that period, the Complaints Committee will not consider the complaint.
5. If the notice of complaint is complete, the Complaints Committee will inform the complainant whether it will consider the complaint further and the manner in which the complaint will be considered.

Article 17 Notification of the accused and the opportunity to put forward a defence

1. The secretary of the Complaints Committee notifies the accused of the submitted complaint, by sending them the complaint and the documents submitted with it.
2. The accused is given the opportunity to respond in writing to the complaints against them by means of a statement of defence. The Complaints Committee grants the accused a reasonable period of at least ten days for this purpose.
3. The statement of defence and the documents submitted with it are sent to the complainant for the purpose of notice only.
4. In principle, the statement of defence is the only written opportunity for the accused to respond to the notice of complaint.

Article 18 Several complainants and/or accused

1. If more than one complainant jointly submit a notice of complaint, it will be assumed to be dealt with jointly. If there are several complainants but separate notices of complaints are filed, the Complaints Committee will handle each notice of complaint separately.
2. If there are several accused, each accused will be given a separate opportunity to respond in writing to the complaints or to the parts of complaints against them.
3. Notwithstanding the first paragraph, the Complaints Committee can decide to deal with several multi-party complaint proceedings jointly if they relate to the same facts or circumstances.

Article 19 Simplified settlement

1. On the chairperson's instructions, the Complaints Committee can settle a complaint on a simplified basis if the chairperson believes a complaint is manifestly unfounded or the committee manifestly lacks the competence to act.
2. If the chairperson intends to apply simplified settlement, the complainant will be asked for their view beforehand.
3. In a simplified settlement, the chairperson gives the complainant the opportunity to appeal the simplified settlement in writing and with reasons within 14 days. That appeal is directed to the Complaints Committee, which will then handle the complaint in accordance with the rules in a complaints procedure as referred to in this section.

Article 20 Second period of written submissions and further documents

1. In principle, there is no second period of written submissions and the complainant must substantiate the complaint by means of the notice of complaint and the accused by means of the statement of defence. If it sees reason to do so, the Complaints Committee can order a second written period. In that case, the complainant will be given the opportunity to respond in writing by reply to the accused's statement of defence, after which the accused will be given the opportunity to respond in writing by rejoinder to the complainant's reply.
2. If the complainant or accused submits further documents that do not form part of the notice of complaint or statement of defence respectively, these documents may be submitted up to ten days before a hearing, with written reasons explaining why they could not be submitted earlier. The same applies to the listing of any witnesses or experts to be heard.
3. Following the submission of further documents, the Complaints Committee can decide to first order a second period of written submissions instead of a hearing.
4. If documents are submitted during a hearing, the Complaints Committee will decide then whether the documents can still be added to the case file. If these documents are refused, the Complaints Committee must give reasons for that decision. If these documents are admitted, the Complaints Committee will give the other party an opportunity to respond to them in writing.
5. Documents submitted after the hearing fall outside the scope of the Complaints Committee's investigation.

Article 21 Hearing of parties

1. The Complaints Committee gives the complainant and the accused the opportunity to be heard unless:
 - a. the parties themselves waive the right to be heard in writing; or
 - b. the complaint is manifestly unfounded.
2. The complainant and the accused are heard in the presence of one another unless this would impede careful processing of the complaint or the Complaints Committee expects facts or circumstances to emerge that must be kept confidential for important reasons. The Complaints Committee decides how the parties will be heard.
3. The Complaints Committee gives the complainant and the accused timely notice of the hearing. Before notice is given, the secretary asks about any dates on which it will be impossible to attend. If a party fails to appear at the hearing, they will be deemed to have waived the right to be heard as referred to in paragraph 1, sub-paragraph a.
4. Hearings are not public.
5. Records are kept of joint hearings of the parties. The complainant and the accused are first given the opportunity to correct obvious inaccuracies in the draft record, after which the Complaints Committee adopts the hearing record.
6. If the complainant and the accused are heard separately, the procedure is as follows:
 - a. The separate hearings take place based on the notice of complaint and the statement of defence. Documents submitted after the hearing fall outside the scope of the Complaints Committee's investigation.
 - b. The draft record of each separate hearing is first submitted to the party heard. The party heard is given the opportunity to correct obvious inaccuracies in the draft report of their hearing, after which the Complaints Committee will adopt the hearing record.
 - c. The complainant and the accused are given the opportunity to respond in writing to the adopted record of the other party's hearing. If a party has waived the right to be heard separately, that party will receive only the adopted hearing record from the other party for information purposes.
 - d. The parties' response is sent to the other party for information purposes.
7. If the Complaints Committee is of the opinion that the complainant and the accused should be heard further before an opinion can be submitted to the Executive Board, it will invite the complainant and accused for this purpose.

Article 22 Hearing of witnesses and/or experts

1. Witnesses and/or experts can be heard at the request of the complainant, the accused, or the Complaints Committee.
2. The Complaints Committee gives the witnesses and/or the experts timely notice of the hearing. Before notice is given, the secretary asks about any dates on which it will be impossible to attend. Witnesses and/or experts appear on a voluntary basis.
3. Hearings are not public.
4. Records are made of witness and/or expert hearings. The witness or the expert are first given the opportunity to request to correct obvious inaccuracies in the draft record, after which the Complaints Committee adopts the hearing record.
5. Witnesses and/or experts are deemed able to be heard without obligation.

Article 23 Manner of the hearing

1. Hearings are generally held at a venue designated by the institution.
2. If the Complaints Committee finds that it is not possible to meet at the designated venue referred to in paragraph 1, it can determine that a hearing will be held in another manner, including online or by telephone, if technically possible and if confidentiality can be adequately guaranteed.
3. If the Complaints Committee is of the opinion that an onsite hearing is not possible and is not technically possible and/or confidentiality cannot be adequately guaranteed, the Complaints Committee will determine in what other way the right to be heard can be applied, with due observance of Article 20, paragraph 1, Article 24, and Article 21, paragraph 6.

Article 24 Written complaint proceedings only

1. At the complainant's request or if all parties waive the right to be heard, the Complaints Committee can deal with the complaint proceedings in writing instead of holding a hearing. In this case, the complainant and the accused will not be heard.
2. The Complaints Committee can decide to conduct a written complaints procedure if there are special circumstances that justify not holding a hearing.
3. If a written complaints procedure is chosen, the Complaints Committee will order a written reply and rejoinder as described in Article 20, paragraph 1.

Article 25 Recommendation from the Complaints Committee

1. An opinion from the Complaints Committee contains at least the following information:
 - a. the complainant's name
 - b. the accused's name
 - c. a concise account of the complaint proceedings
 - d. the outcome of the investigation conducted by the Complaints Committee
 - e. whether the complaint(s) are well-founded, unfounded, or partially founded
 - f. the reasons based on which the Complaints Committee produced its opinion
 - g. the record(s) of the hearing(s) of the complainant and the accused
 - h. the record(s) of the hearing(s) of the witnesses and/or experts unless the Complaints Committee believes that the confidentiality or secrecy of what has been stated by the witnesses and/or experts prevails over its disclosure.
2. If the complaint gives grounds for doing so, the opinion can also include:
 - a. a recommendation on the measures or sanction to be adopted within the statutory provisions and collective labour agreement relevant to the institution
 - b. a recommendation for a follow-up care programme.
3. The Complaints Committee sends the opinion to the Executive Board and informs the complainant and accused that it has done so.
4. Opinions as referred to in paragraph 2 are issued only to the Executive Board and are not sent to the complainant and the accused.

Article 26 Deadlines

1. In principle, the maximum time for handling a complaint is 12 weeks.
2. If this deadline under the first paragraph turns out to be infeasible, the Complaints Committee can extend the deadline for a maximum of six weeks with notification to the complainant and the accused.

3. In addition to paragraph 2, the Complaints Committee can decide to extend the period further, by a period to be specified, only if diligence or special circumstances mean that a longer period needs to be applied. The Complaints Committee must give additional reasons for that decision.
4. If the notice of complaint is defective, the Complaints Committee can suspend the complaints handling period for as long as the complainant has not remedied the defects within the time limit set by the Complaints Committee.
5. In the other cases referred to in paragraph 4, the Complaints Committee can suspend the complaints handling period. However, it can only suspend if it sees sufficient reason to do so. Notice of a decision to suspend further must be given to the complainant and the accused with reasons.

Section 5 Settling a complaint

Article 27 Executive Board's decision

1. The Executive Board informs the complainant and accused in writing of the findings of its investigation and the associated conclusion and provides substantiation.
2. The Executive Board attaches the Complaints Committee's opinion to its decision.
3. If the view taken by the Executive Board differs from the Complaints Committee's opinion, the Executive Board will explain the reasons for this to the complainant and accused in its conclusion.
4. The Executive Board sends a copy of its position and/or the settlement of the complaint to the Complaints Committee, stating the method of settling the complaint and, if applicable, whether follow-up care is provided for the complainant(s) and/or accused.
5. If a further complaint can be submitted to a person or board as a follow-up to the proceedings, this will be mentioned as part of the Executive Board's notice.

Article 28 End of the complaint proceedings

1. A complaint can be submitted to the Complaints Committee once. Once the proceedings have ended, the same complaint cannot be resubmitted.
2. The Complaints Committee will inform the complainant and the accused once the proceedings have been or will be ended, stating the reason for their termination.
3. Complaint proceedings always end once the Complaints Committee has issued its opinion to the Executive Board.
4. Complaint proceedings also end on completion of the simplified settlement as described in Article 19.
5. If the complainant asks the Complaints Committee in writing to discontinue the complaint proceedings, they end with immediate effect.

Section 6 Final provisions

Article 29 Participation and withdrawal

1. It is possible to participate in or withdraw from this Procedure.
2. An institution not involved in adopting this Procedure can participate in it only if it has accepted this Procedure in full and all institutions already party to this Procedure have indicated that they have no objections to the participation of the institution concerned.
3. An institution wishing to withdraw from this Procedure must make this known to the other institutions in writing no later than six months prior to withdrawal.
4. Institutions that start participating in or withdraw from this Procedure after it has entered into effect are listed in an appendix to this Procedure.

Article 30 Unforeseen cases

If this Procedure does not provide a working method for the Complaints Committee, the chairperson will determine it.

Article 31 Official title

This Procedure may be cited as the 'Joint Complaints Procedure against Undesirable Conduct'.

Article 32 Repeal of previous procedure and transitional provision

1. The Procedure for Joint Complaints against Undesirable Conduct as adopted by the institutions in 2012 is repealed simultaneously with the entry into force of this Procedure.
2. All complaint proceedings are handled in accordance with the procedure in force at the time of submitting the notice of complaint.

Article 33 Adoption and entry into force

1. This Procedure has been adopted by the institutions concerned, after consultation with their respective consultative bodies, on:
 - a. November 29, 2022 – Zuyd University of Applied Sciences;
 - b. January 12, 2023 – Open Universiteit after obtaining advice from the Student Council on July 21, 2022 and obtaining approval from the Works Council on December 13, 2022;
 - c. December 20, 2022 – Maastricht University
2. This Procedure takes effect on 1 January 2023.
3. At the time of entry into force of these Procedure, the Procedure for Complaints against Undesirable Conduct Open Universiteit with reference U2010/5804 and the Procedure for Joint Complaints against Undesirable Conduct of Zuyd University of Applied Sciences, Open Universiteit and Maastricht University with reference U2021/2773 will expire.