

# Rules and Regulations

regarding the implementation of Article 7.4 of the Code of Conduct

**Revised 1 March 2013**

## *Section 1. Preliminary provisions*

### **Article 1. Definitions**

The definitions given in the Code of Conduct also apply to these Rules and Regulations.

### **Article 2. Language**

1. The Dutch and English versions of the Code of Conduct are equally legally valid.
2. All communications in relation to international students with respect to the Code of Conduct, the Register, the National Commission and the Rules and Regulations, will be in the Dutch or English language.

## *Section 2. The Register*

### **Article 3. Application**

1. A higher education institution may submit a request for inclusion in the Register by fully completing and signing the application form.
2. The application form for inclusion in the Register is to be signed by the competent authority of the higher education institution, or by the person who is competent to fully represent the higher education institution, as can be established from the Dutch Commercial Register (which includes the Register of Foundations).
3. The application form as well as the documents referred to therein will be submitted in the Dutch or English language.

### **Article 4. Application process**

1. The Register Administrator will confirm receipt of the application within five working days.
2. In case the application is incomplete, the Register Administrator requests the missing information to be provided within a stipulated period.
3. In case the information is not provided within the period as referred to in the second paragraph, the application will be deemed to be withdrawn.
4. The application will only be processed if and when it is complete.

## **Article 5. Inclusion in the Register**

1. Every applicant whose application has been granted will be included in the Register. The Register is open to the public.
2. The inclusion in the Register takes effect on the day on which the application was granted.

## **Article 6. Removal of inclusion**

1. The inclusion of the institution will be removed from the Register in case of a decision of the National Commission based on Article 7.8 of the Code of Conduct.
2. The inclusion of the institution will subsequently be removed from the Register:
  - a. in case of bankruptcy, moratorium of payment or when the activities are effectively terminated by the higher education institution,
  - b. in case of a merger of the higher education institution with another higher education institution, and
  - c. when the registration is terminated by the higher education institution.

## *Section 3. The National Commission*

### **Article 7. Task**

1. The task of the National Commission is to ascertain that the Code of Conduct is complied with and to check whether the actions of the higher education institution comply with the Code of Conduct. The Commission does so by, for example:
  - a. considering the submitted petitions based on the Code of Conduct, and
  - b. conducting its investigation into the way in which a higher education institution has acted or is acting under the Code of Conduct.
2. Section 4 of these Rules and Regulations contains further provisions to consider petitions and to conduct investigations by the National Commission.
3. The National Commission can make recommendations to higher education institutions.
4. The National Commission adopts the annual reports and sees to its publication.

### **Article 8. The secretary**

1. The secretary of the National Commission originating from the organisation of the Register Administrator will be appointed by the National Commission after being nominated by the Register Administrator.
2. The secretary proposes the agenda for the meetings of the National Commission, and ensures the timely transmission of the documents as well as taking the minutes of the meetings of the National Commission.
3. The secretary keeps records of the fees and other financial means made available to the National Commission by the Dutch Ministry of Education, Culture and Science (*Ministerie van OCW*).
4. The secretary monitors the preparation and periods of the petitions procedure.
5. The secretary prepares the annual reports.

6. The secretary manages the rotation schedule of the members of the National Commission.
7. The secretary ensures timely processing and notification of modifications in the Rules and Regulations.
8. The secretary performs other tasks; these will be ordered or mandated by the National Commission or by the chair.

#### **Article 9. The researcher**

1. The researcher of the National Commission originating from the organisation of the Register Administrator will be appointed by the National Commission after being nominated by the Register Administrator.
2. The researcher prepares the investigation by the National Commission to whether the actions of the higher education institutions comply with the Code of Conduct. Such an investigation will take place on the basis of a by the National Commission adopted research plan.
3. The researcher performs other tasks; these will be ordered or mandated by the National Commission or by the chair.
4. The researcher also performs as alternate secretary, to whom the provisions of Article 8 equally apply.

#### **Article 10. Covenant**

The relationship and division of responsibilities between the National Commission and the organisation of the Register Administrator are set out in a covenant.

#### **Article 11. Convening meetings of the National Commission**

1. The National Commission will meet as often as deemed necessary by the chair or by at least two members or their substitutes, but at least once every six months.
2. The venue and the times of the meetings will be decided by the chair.
3. The notice of convocation, the agenda and documents are forwarded by the chair to the members or their substitutes no later than 7 days before the start of the meeting.

#### **Article 12. Decision-making**

Decisions will be made receiving at least two-thirds majority of favourable votes; this includes the chair who also has the right to vote.

#### *Section 4. Petitions and investigations on its own initiative*

#### **Article 13. Petitions**

1. Anyone with a direct interest has the right to submit a petition in writing concerning the way in which a higher education institution has acted or is acting towards him/her or someone else under the Code of Conduct.

2. Before submitting a petition to the National Commission concerning the way in which a higher education institution has acted or is acting towards him/her or someone else under the Code of Conduct, the petitioner first lodges a complaint regarding the action to the competent authority of the higher education concerned, in observance of the provisions of Chapter 7 of the Code of Conduct.
3. The National Commission deals with petitions as referred to in the first paragraph, except in those cases as referred to in Article 19, first and second paragraph.

#### **Article 14. Submitting a petition**

1. A petition always contains:
  - a. the name and address of the petitioner;
  - b. a copy of the identity card of the petitioner;
  - c. the submission date;
  - d. a description of the action that is the subject of the petition, the name of the person who has acted in this manner and the name of the person towards whom the action has taken place, if he/she is not the petitioner;
  - e. the grounds of the petition;
  - f. the way in which a complaint has been submitted with the higher education institution, and if possible the findings of the investigation of the complaint by the higher education institution, its opinions and any conclusions.
2. In case the petition is written in a different language than the Dutch or the English language, and a translation is needed to properly investigate the petition, the petitioner provides a Dutch or English translation.
3. If the requirements of this article are not satisfied, the National Commission gives the petitioner the opportunity to rectify the omission within a stipulated period.

#### **Article 15. Confirmation of receipt**

1. The secretary will confirm receipt of the petition in writing within five working days after the day of receipt.
2. If the petitioner has been addressed incorrectly, the secretary forwards the petition as soon as possible after recording the date of receipt to the correct authority, and notifies the petitioner immediately.

#### **Article 16. No suspensive effect**

Submittal of a petition to the National Commission does not suspend the coming into force of the decision.

#### **Article 17. Costs of the petition procedure**

1. Any costs incurred by the petitioner in relation to this complaint<sup>1</sup>, are for his/her own account.

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<sup>1</sup> With respect to costs that the complainant properly incurred in connection with the complaint procedure, such as the fees of a legal assistance counsellor, experts, travel costs and the fee of an interpreter/translator.

2. Contrary to the provisions of the first paragraph, should in the opinion of the National Commission serious reasons exist, the National Commission can compensate the petitioner after a request to this effect. This compensation will be paid by the higher education institution relating to the petition.

#### **Article 18. Competence of the National Commission**

The National Commission is only competent to judge the behaviour of a higher education institution which occurred after the day on which the inclusion in the Register has taken effect.

#### **Article 19. No obligation to process the petition**

1. The National Commission can decide not to process a petition, or to discontinue the consideration thereof, if:
  - a. the petitioner does not satisfy the requirements as referred to in Article 13, first and second paragraphs of these Rules and Regulations;
  - b. the petition is manifestly unfounded;
  - c. the interest of the petitioner is manifestly insufficient or the seriousness of the action is manifestly insufficient;
  - d. the requirements of Article 13, second paragraph of these Rules and Regulations, have not been satisfied;
  - e. the petition refers to an action of which a complaint has been lodged by the higher education institution concerned, unless this complaint should already have been concluded in accordance with the applicable complaint policy of the higher education institution concerned;
  - f. the petition refers to an action against which another procedure has been submitted or another mechanism is already in place;
  - g. the investigation of the petition is already being processed or has been concluded, except if a new fact or a new circumstance has been revealed which could result into a different opinion of said action;
  - h. after intervention by the National Commission and in the opinion of the National Commission, the petition of the petitioner has been met properly;
  - i. the petition refers to an action for which a relevant warrant of arrest has been issued by the public prosecutor or is subject to prosecution, or if the action forms part of the criminal investigation or prosecution of a punishable action and a relevant warrant of arrest has been issued by the public prosecutor or is subject to prosecution.
2. Furthermore, the National Commission may either decide not to consider or to discontinue the procedure if a petition is submitted more than one year after:
  - a. consideration of the complaint has been concluded by the higher education institution, or should have been concluded in accordance with the prevailing complaint policy at the higher education institution.
  - b. the action to which the petition relates took place.
3. In case the National Commission does not consider a petition based on the first or second paragraph, the Commission informs the petitioner stating the reasons as soon as possible but no later than 8 weeks after receipt of the full, substantiated petition in writing.

4. Should the National Commission discontinue the consideration, it also informs the higher education institutions as referred to in the third paragraph, and, if applicable, the person whose action is the subject of the petition.

#### **Article 20. Explanation of Point of View**

1. The National Commission will give the higher education institution, the person who has committed the action related to this petition, and the petitioner the opportunity to explain their points of view and to respond to the arguments used.
2. The National Commission decides whether the explanation should be written and/or oral and whether or not this explanation should be given by the petitioner, the higher education institution and the person who has committed the action related to this petition in each others presence or separately.

#### **Article 21. Obligation to provide information**

The higher education institution and persons working under its responsibility – even after concluding employment - as well as the petitioner will provide the National Commission the necessary information and appear after receiving an invitation to this effect.

#### **Article 22. Processing time**

1. The National Commission will conclude the petition within twelve weeks after the receipt of a fully submitted petition. In case of a pro forma complaint the period referred to in the first sentence starts on the date of receipt of the grounds on which the complaint is based.
2. The National Commission cannot postpone conclusion for more than eight weeks.
3. The secretary gives a written notice of postponement to the petitioner, the higher education institution and to the person whose action is the subject of the petition.

#### **Article 23. Findings and opinion**

After the procedure has been concluded, the secretary of the National Commission informs the petitioner, the higher education institution, the person whose action is the subject of the petition as well as the Education Inspectorate in writing, supported by reasons of the findings of the investigation into the action and the opinion of the National Commission. Recommendations, conditions or a disciplinary measure as referred to in Article 25, may form part of the opinion.

#### **Article 24. Consequences**

1. If the National Commission upholds the petition, it can order the higher education institution to make a new decision or perform another action with due observance of its opinion.
2. Part of such opinion may be a compensation of the costs by the higher education institution in relation to the petition, as referred to in Article 17 of these Rules and Regulations.

3. If the National Commission upholds the petition, it can include recommendations, conditions or a disciplinary measure, as referred to in the following Article.

**Article 25. Disciplinary measure**

The disciplinary measure referred to in the previous Article consists of the removal of the higher education institution from the Register.

**Article 26. Registration and publication**

1. The secretary ensures registration of the petitions filed with the National Commission.
2. Registered petitions and conclusions are published in the annual reports, on the Internet site and in publications of the National Commission.

**Article 27. Petitions concerning the National Commission**

Petitions concerning the National Commission, its secretary or its researcher are to be submitted to the chair of the National Commission.

**Article 28. Petitions concerning the Register Administrator**

Petitions concerning the Register Administrator are to be submitted to the Register Administrator. This section, with the exception of Article 24, paragraph two and three, as well as Article 25, equally applies to petitions concerning the Register Administrator.

*Section 5. Final provision*

**Article 29. Commencement date**

The modifications of these Rules and Regulations take effect on 1 March 2013.

Decided upon and established by the National Commission,  
Utrecht, 20 February 2013,

*Prof. mr. R. Fernhout*  
Chair

*mr. A.G.D. Overmars*  
Secretary