



Regulations and Procedures Related to Suspected Irregularities

Whistleblowing Regulations

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Introduction

The Regulations and Procedures related to Suspected Irregularities, also referred to as the Whistleblowing Regulations, describe where a student or employee can go to if they have any suspicions of irregularities. Furthermore, it sets out how Breda University of Applied Sciences is required to act in the case of such situations, and what the rights of the persons involved are.

In this version of the Whistleblowing Regulations, the following changes have been made:

- The texts have been updated.
- The first contact points for reporting a suspected irregularity are the supervisor, the academy director or the Executive Board.
- If the report concerns the Executive Board (or a member / members of the Executive Board), the report will be taken into consideration by the chair of the Supervisory Board.
- If the report is made by a supervisor or academy director, the Executive Board or the chair of the Supervisory Board respectively will be notified immediately by the person who received the report. This report will be anonymised if the person concerned does not want his identity to be disclosed.
- After following the internal procedure, the person concerned will be allowed to – if he/she disagrees with the final verdict or if the investigation lasts too long – engage an external third party without consultation with and permission of the Executive Board or the chair of the Supervisory Board.
- It is possible to report a suspected irregularity to an external third party in the case of special situations, preferably after consultation with the Executive Board or the chair of the Supervisory Board (as mentioned in article 3.1 section 2).

Please send any remarks you may have concerning and further to these regulations to SER for the attention of the Secretary of the Executive Board.

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Hoofdstuk 1 General

Artikel 1.1 Definitions

In these regulations, the following terms will have the following meanings:

Academy director	Leading officer of an academy. The academy director bears final responsibility for the day-to-day running of an academy on the grounds of the duties and powers authorised to him by the Executive Board.
Person concerned	The person who reports a suspected irregularity. This may be either a student or an employee of Breda University of Applied Sciences.
Executive Board	The governing and policy-making body of <i>Stichting Breda University of Applied Sciences</i> , as referred to in article 10.2 of the WHW in conjunction with articles 3 to 5 inclusive and article 7 of the articles of association of <i>Stichting Breda University of Applied Sciences</i> .
External third party	Any organisation or representative of an organisation, not being: <ul style="list-style-type: none">- the Supervisory Board,- the Executive Board,- the immediate supervisor,- the academy director, or- the legal adviser.
Supervisor	The person who is responsible for an academy (i.e. an academy director) or a supporting service (i.e. a head of service) of Breda University of Applied Sciences.
Employee	Person who is employed by Breda University of Applied Sciences on the basis of an employment contract under civil law. A person who works with Breda University of Applied Sciences on the basis of a temporary employment contract, a placement contract, a secondment contract, or on another basis, will be considered equivalent to an employee.
Legal adviser	The person who, on account of his position, is obliged to observe confidentiality, such as a solicitor, a legal assistance provider, a representative from a trade union, or an occupational physician.

Artikel 1.2 General provisions

- 1 The following is meant by a suspected irregularity:
A suspicion based on reasonable grounds with regard to Breda University of Applied Sciences, which concerns:
 - a an actual or imminent criminal offence;
 - b an actual or imminent violation of regulations;
 - c a danger or imminent danger to public health, safety and/or the environment;
 - d an actual or imminent intentional provision of incorrect information to public bodies;
 - e an actual or imminent waste of government funds;
 - f actual or imminent intentional suppression, destruction or manipulation of information regarding these facts.

- 2 Breda University of Applied Sciences deems it important that employees and students have the possibility – in an adequate and safe manner - to report suspected irregularities, as referred to in section 1.
- 3 The Regulations and Procedures relating to Suspected Irregularities are also referred to as Whistleblowing Regulations.

Artikel 1.3 Applicability

- 1 These regulations explicitly do not apply to:
 - a reporting any personal complaints in connection with study or work;
 - b reporting any conscientious objections in connection with carrying out normal activities of Breda University of Applied Sciences;
 - c criticising policy choices made by or on behalf of Breda University of Applied Sciences.
- 2 In these regulations, all reference to the masculine gender (he, him and his) is to be taken to include the feminine gender (she, her and hers).

Hoofdstuk 2 Internal Procedure

Artikel 2.1 Reporting internally

- 1 Unless a situation applies as referred to in article 3.1 section 2, the person concerned will report suspected irregularities to his supervisor or the academy director or, if he considers this inappropriate, to the Executive Board.
- 2 The person to whom the report was made will make a written record of the report and of the date of its receipt and will have the person concerned sign the record for approval. The person who made the report will receive a copy of the record.
- 3 If the report was not made to the Executive Board, the person to whom the report was made will immediately inform the Executive Board in writing of the report and the date on which it was received. A copy of the recorded report will be provided. Upon request of the person concerned, this copy will be anonymised if the person concerned does not wish to disclose his identity.
- 4 The Executive Board will inform the chair of the Supervisory Board of the report as referred to in sections 2 and 3 of this article.
- 5 Contrary to the provisions of section 3 of this article, the chair of the Supervisory Board will be informed of the report and the date on which it was received, if the report concerns the Executive Board or a member / members of the Executive Board.
- 6 In response to a report of a suspected irregularity, an investigation will be initiated by or on behalf of the Executive Board or the chair of the Supervisory Board.
- 7 The Executive Board or the chair of the Supervisory Board will send a confirmation of receipt to the person concerned who reported the suspected irregularity. Reference to the original report will be made in the confirmation.
- 8 If the report is received in anonymous form, the Executive Board or the chair of the Supervisory Board will communicate in writing with the person who received the report.

- 9 The Executive Board or the chair of the Supervisory Board will assess whether it is necessary to inform and/or engage an external third party of the internally reported suspected irregularity.

Artikel 2.2 Verdict

- 1 Within a reasonable period of time, but in any case within eight weeks from the date of the internal report, the person concerned will be informed in writing by or on behalf of the Executive Board or the chair of the Supervisory Board of the Executive Board's or the chair of the Supervisory Board's verdict on the report regarding the suspected irregularity. In this process, the actions taken as a consequence of the report will be described. In this process, article 2.1 section 8 will be taken into account.
- 2 If a verdict cannot be given within eight weeks, the person concerned will be notified thereof in writing by or on behalf of the Executive Board or the chair of the Supervisory Board and be given an indication as to when he will be informed of the verdict. In this process, article 2.1 section 8 will be taken into account.
- 3 If the Executive Board or the chair of the Supervisory board establishes, after the investigation as referred to in article 2.1 section 6, that the internal report is not based on a fact and/or facts, Breda University of Applied Sciences will take appropriate action towards the person concerned who reported the suspected irregularity, in conformity with the Code of Conduct Breda University of Applied Sciences, the 'CAO', or other applicable laws and/or regulations.

Artikel 2.3 Legal adviser

- 1 The person concerned may report a suspected irregularity to a legal adviser of his own choice in order to seek advice confidentially.
- 2 The costs of the services of a legal adviser will be at the expense of the Executive Board or the Supervisory Board – according to the principle of reasonableness and fairness – in which concrete agreements are made before entering into any obligations.

Hoofdstuk 3 Reporting to an External Third Party

Artikel 3.1 Conditions for reporting to an external third party

- 1 After following the procedure for internal reporting, as referred to in chapter 2, the person concerned may report his reasonable suspicion of an irregularity to an external third party, if:
 - a he disagrees with the verdict as referred to in article 2.2 and is of the opinion that his suspicion was wrongly dismissed;
 - b he has not received a verdict within the required time period, as stated in article 2.2;
 - c the period of time, as referred to in article 2.2 section 2, given all circumstances, is unreasonably long and the person concerned has objected against this to the Executive Board or the chair of the Supervisory Board.
- 2 The person concerned may report a reasonable suspicion of an irregularity to an external third party, disregarding the internal procedure, preferably after consultation with the Executive Board or the chair of the Supervisory Board, if there is:
 - a an acute danger, in which a weighty and urgent public interest requires immediate external reporting;

- b a situation in which the person concerned has reasonable grounds to fear that an internal report would lead to countermeasures being taken;
- c a clear threat of embezzlement or destruction of evidence;
- d a situation where an earlier report, in conformity with the procedure, of a similar or near-similar suspected irregularity did not remedy that irregularity;
- e a legal obligation or power of direct external reporting.

Artikel 3.2 Reporting to an external third party

- 1 In the case of reporting to an external third party, the person concerned will choose the external party which, in his reasonable opinion and in view of the given circumstances, is best qualified to deal with the suspected irregularity, such as the Inspectorate of Education, the Labour Inspectorate, or the Public Prosecution Service. In this process, the person concerned takes into account on the one hand the external party's power to deal with the case effectively and on the other hand the interest of Breda University of Applied Sciences in sustaining as little damage as possible as a result of the external party's actions, insofar as that damage does not necessarily ensue from the actions taken against the suspected irregularity.
- 2 The greater the likelihood of damage for Breda University of Applied Sciences due to a report of a suspected irregularity to an external third party, the stronger the suspicion of the irregularity reported by the person concerned to an external party must be.

Hoofdstuk 4 Concluding Provisions

Artikel 4.1 Legal protection

- 1 The person concerned who has reported a suspected irregularity in accordance with these regulations will not be affected in any way in his position as a result of his report, unless circumstances as mentioned in article 2.2 section 3 are involved.
- 2 A legal adviser as referred to in article 2.3, who is employed by Breda University of Applied Sciences, will not be affected in any way as a result of acting as such under these regulations.

Artikel 4.2 Adoption and entry into force

- 1 The Executive Board will adopt the 'Regulations and Procedures related to Suspected Irregularities Breda University of Applied Sciences' after the assent of the Participation Council and after the approval by the Supervisory Board.
- 2 These regulations became effective the day after the Executive Board adopted them and they replace all previous versions.

Artikel 4.3 Hardship clause

In cases not covered by these regulations, the Executive Board will decide.