

LEGAL PROCEDURES USE TU/E BUILDINGS

14-12-2023

Article 1

Student

Definitions

Anyone who is enrolled at TU/e as a student or is taking education at TU/e (full-time, part-time or on the basis of a special form of enrollment).

Building Manager

This refers to the manager of one or more TU/e building(s) appointed by the EB. A grounds manager has been appointed for the TU/e grounds. In the remainder of this document, the term building manager also refers to the grounds manager. Rules, with the exception of building-specific rules, also apply to this grounds manager.

Group director

Director of a component of the university designated by the Executive Board that is separately administered.

TU/e buildings

All buildings and sites (grounds and structures) owned and managed by TU/e.

The one

Student, employee and third party

Owner or EB

Executive Board

Third party

Someone who is not an employee or student

Employee

Someone with permanent or temporary employment with TU/e, or temporary employment through Euflex, or staff hired by TU/e who are or are not registered as being on payroll.

Article 2

1.

Those who are in the TU/e buildings are required to immediately and conscientiously comply with the rules, guidelines and instructions set by or on behalf of the university within the framework of maintaining order and safeguarding the proper course of affairs within the TU/e buildings, **hereinafter referred to as: the order regulations**. With regard to the efficient and/or legitimate use of the TU/e facilities and provisions, hereinafter referred to as: the order regulations, must be complied with immediately and strictly and must adhere to the ensuing instructions of **a group director or building manager and/or TU/e security**.

2.

The person shall behave in such a manner that to the university or to a person, who is also in the TU/e buildings.

a.

no direct or indirect damage is caused or (significant) nuisance is caused or (unacceptable) nuisance is caused or nuisance is caused to the TU/e, its employees, students, persons associated with the TU/e or third parties using the TU/e buildings.

b.

no direct or indirect damage is caused or (significant) nuisance is caused or (unacceptable) nuisance is caused or nuisance is caused to the TU/e, its employees, students, persons associated with the TU/e or third parties using the TU/e buildings.

c.

no infringement of a right of the TU/e or of other persons, who are in or using the TU/e buildings.

d.

it does not violate any legal obligation, and

e.

it does not violate what is proper in society towards another person or property,

f.

no acts are done or omitted in violation of written or unwritten law

g.

no other unacceptable behavior is exhibited,

h.

not acting in violation of regulations applicable to TU/e, such as codes of conduct and regulations.

3.

In the case of conduct occurring outside the TU/e buildings that may have repercussions on order within the TU/e buildings or within the business or educational situation, measures may be taken.

4.

It is not permitted on the TU/e campus (both inside and outside) to wear face-covering garments and/or attributes (except mouth guards) that limit non-verbal communication in reasonably ascertaining the identity of employees, students and third parties.

5. Without prejudice to the authority of the Executive Board to establish rules itself, the **group directors and the building managers** who have been mandated by the Executive Board to do so may, on behalf of the Executive Board, establish further rules of order with a view to the proper conduct of business within the spaces assigned to them within the TU/e buildings. They will make these rules sufficiently known (after possible involvement of the relevant employee participation body) and send a copy of the further order rules they have laid down to the Executive Board.

Article 3 Enforcement by EB, group director or Head of Safety & Security

1. The **EB** may take both provisional, conditional and final measures with respect to students, employees and third parties.
2. The **group director or the Head of Safety & Security** may issue warnings to students, employees and third parties. A **teacher** or **employee** can issue a warning to students and third parties.
3. The **group director** may impose a written reprimand with respect to students, staff and third parties.
4. The **EB**, the **group director or the Head of Safety & Security** may impose a temporary measure with respect to students, employees, and third parties.
5. A measure with regard to employees may be taken in addition to invocation of contractual and/or labor law obligations or imposed labor law measures.

Article 4 The measures for violation of order rules

1. The **EB, a group director or the Head of Safety & Security** may take measures in accordance with the procedure described in these regulations against the person who does not comply with the provisions of these regulations or against the person against whom -in the interest of the TU/e organization- there is a serious suspicion that the person does not comply with the provisions of these regulations.
2. Those measures may include the following:
 - a. a warning by a **teacher** or **staff member** (if a student or third party is involved) and the **group director or Head of Safety & Security** (if a student, third party or employee is involved).
 - b. a written reprimand by the **group director**.
 - c. a fine, when agreed upon or based on a provision of law by the **EB**.
 - d. conditional or permanent denial of access to (one or more parts of) the TU/e buildings by the **EB**, after advice from the **group director or Head of Security & Safety**.
 - e. The measure referred to in paragraph 2 under d may be preceded by a provisional denial of access to (one or more parts of) the TU/e buildings by the **group director or by the Head of Safety & Security** or the **EB** pending the investigation, which (by order of the **EB**) is done by the **group director, building Manager or Head of Safety & Security**.
3. A measure referred to in paragraph 2, under b, c and d, may be imposed, depending on the situation, only after the person has been warned and the person has not ceased the conduct. The prior warning therefore does not apply to the measure referred to under e.
4. In particular, with respect to a student who violates Article 2 of these Regulations, the **EB** may, by decision, take the following measures:
 - a. the exclusion from participation in a test or final examination.
 - b. exclusion from participation in a study component.
 - c. temporarily terminate enrollment, as referred to in section 7.57h paragraph 1 WHW.
 - d. permanently terminate enrollment, as referred to in section 7.57h paragraph 2 WHW.

Article 5 Procedure and duration of measures for employee, student or third party

1. A warning as referred to in Article 4, paragraph 2, under a, will be given verbally or in writing. The other measures referred to in Article 4 are given in writing.
2. The other measures referred to in Article 4, paragraph 2, under b, c and d, are imposed only after the person has been heard by the **group director**.

3. A provisional denial of access will be imposed by the **group director, Head of Safety & Security** or the **EB** with immediate effect if it is necessary that the person is not in (one or more parts of) the TU/e buildings pending the investigation. This measure may also be imposed with immediate effect if, despite verbal and/or written warnings, the person continues to act in violation of the order regulations.
4. If the person cannot be heard in a timely manner, or be given the opportunity to be heard, because - in the opinion of the **group director, building manager, Head of Safety & Security** or the **EB** - the seriousness of the situation requires an immediate provisional denial, the **group director, Head of Safety & Security** or the **EB** - may impose a provisional denial pending decision-making, without having heard the person. As soon as possible afterwards, the student or employee will be given the opportunity to answer orally or in writing. The person may be assisted by a counselor/agent. A provisional denial of access to (one or more parts of) the TU/e buildings can be imposed with immediate effect for a period of five working days; this period can be extended by two times five working days.
5. A conditional and provisional denial of access to (one or more parts of) the TU/e buildings can last up to 1 year.
6. A final denial of access to (one or more parts of) the TU/e buildings is decided by the **EB**, after advice from the **group director and/or building manager** and, if applicable, the **Head of Safety & Security**.
7. Of the denial of access referred to in Article 4, paragraph 2, under d, the **group director** shall make a report as soon as possible and shall transmit the report promptly to the person concerned and to the **EB**.
8. **The group director** will also indicate in that report whether further investigation will take place into whether a -further denial, conditional and/or permanent, is necessary. If a further investigation will take place, after the completion of that investigation the **group director** will advise the **EB** on a possible follow-up measure to be imposed, also indicating to which (parts of) the TU/e buildings this measure should apply, as well as -if it concerns a proposal for a conditional denial- what conditions should be imposed. Attached to the recommendation is (a report of) the student's or employee's justification.
9. The **EB** shall decide on the opinion referred to in the eighth paragraph of this article within a reasonable period of time.
10. Before making a decision, the **EB** may give the person against whom a measure is proposed an opportunity to be heard. The person may be assisted by counsel/authorized representative.

Article 6 Contents of measures

1. A **provisional** denial of access includes at least:
 - a. the designation of the (parts of the) TU/e buildings, to which the provisional denial will apply.
 - b. the period, during which the provisional denial of access will apply.
 - c. a brief description of the reasons, which underlie the conditional denial of access.
2. A **conditional** denial of access includes at least:
 - a. the designation of the (parts of the) TU/e buildings, to which the conditional denial of access will apply.
 - b. the period, during which the conditional denial of access will apply.
 - c. the conditions, failure to comply with which the denial of access will be effected.
 - d. the reasons underlying the conditional denial of access.
3. A **final** denial of access includes at least:
 - a. the designation of the (parts of the) TU/e buildings, with respect to which the final denial will apply.
 - b. the period, during which the final denial of access will apply.
 - c. the reasons underlying the final denial.

4. Notwithstanding the provisions of these regulations, the **group director or building manager**, may request in writing that the EB deny a person conditional or permanent access to the TU/e buildings or portions thereof if, in its judgment, the person has acted in violation of the provisions of Article 2.

Article 7 Termination of permanent denial of access to TU/e buildings

1. The **EB** may, on its own initiative or at the request of the person against whom a measure, as referred to in these regulations, has been taken, terminate a conditional or final denial before the expiration of the period for which it was imposed, or limit the scope of the denial, if - in the opinion of the Board - there are valid reasons for doing so.
2. The **EB** shall not decide on a request referred to in the first paragraph until the relevant **group director** has been heard and the applicant has been given an opportunity to explain the request further orally.
3. The **EB** may attach (further) conditions to the termination or restriction of access or use.
4. If the **EB** is of the opinion, that the person, with respect to whom the proposal is made, has not fulfilled the (further) conditions set by the EB, the conditional or final denial originally imposed shall revive; the period, elapsed since the termination or limitation of the denial shall in that case not be deducted from the originally indicated period.

Article 8 Measures taken against TU/e employees

With respect to employees who fail to comply with the rules, guidelines and instructions established pursuant to these TU/e Regulations, the **EB** may also take any other disciplinary measure that the **EB** - given the circumstances of the case - deems appropriate that may be imposed pursuant to contractual and/or labor law obligations under the Civil Code, collective bargaining agreement of Dutch universities and the individual employment contract.

Article 9 Objection/appeal/procedure civil court

1. Against any decision, as referred to in these regulations, a student, whose interest is directly affected, may lodge an objection with the **EB** within the period of 6 weeks and thereafter appeal the decision on the objection with the Council of State, Department of Student Affairs, in The Hague.
2. Against any decision, as referred to in these regulations, an employee or a third party may claim dissolution under the Civil Code in the appropriate civil court.

Article 10 Privacy

The measures as imposed on students are stored during their enrolment. The measures imposed on employees are stored during their employment. The measures imposed on third parties are stored for the period of five years.

Article 11 Citation

This annex may be cited as Legal Procedures Use of TU/e Buildings.