



## Notes on the appeal process

### 1 General

The appeal process of the Faculty of Law at the University of Zurich is based on the general code of practice of the law on administrative procedures and jurisdiction of the Canton of Zurich (VRG) and on the regulations of the University and the Faculty.

The Framework Ordinance on the Bachelor's and Master's Degree Programs at the Faculty of Law of the University of Zurich (RVO RWF), dated 21 September 2020, stipulates in § 58 para. 1 that the transcript of records is according to § 32 para. 1 subject to appeal to the Faculty Council to the extent of the in the last semester entered academic achievements. The appeal is to be submitted within 30 days of the binding delivery of the transcript of records to the Dean's Office of the Faculty of Law at the University of Zurich by e-mail. The evaluation of the academic achievement will only be reviewed for legal violations and breach of process regulations. Appeals relating to the inadequacy of the evaluation are excluded (§ 46 para. 4 UniG).

An appeal against the decision of the Faculty Board can be lodged with the Appeals Commission of the Higher Education Institutions of the Canton of Zurich (cf. § 58 para. 1 RVO RWF and § 46 para. 2 UniG). You may find more information on the appeal process under:

<https://www.zh.ch/de/bildung/schulen/hochschule/rekurse-im-hochschulbereich.html#-1776500103>

### 2 Examination results and transcripts of records

Examination results are accessible from the middle of February resp. from the middle of September. The transcript of records for the Fall Semester will be made available in the week 8 and for the Spring Semester in the week 38 on the student portal. Beforehand, you will be notified of the delivery by e-mail to the UZH e-mail address. The 30-day appeal period starts upon receipt of the transcript of records. The examinations will be made available to download on the same date. Facts, the matters, ample solutions, grading scales and statistics about the examination will be accessible as well.

### 3 Procedure

#### 3.1 Letter of appeal: Requirements

The appeal must meet the following conditions:

- The appeal must be submitted in writing, signed, and sent as a PDF document by e-mail.
- The appeal must contain one or more clearly worded applications (legal requests) and each application must be brief and clearly justified.
- A copy of the transcript of records and the contested examination must be enclosed.

It must be clear from the application how many additional points should be awarded; it must be evident from a clear presentation and comparison with the specimen answer which corrections are being objected to in this examination. Anybody who alleges that there has been an error in the correction must clearly substantiate this. It is not enough simply to argue that the performance merited a better evaluation or to assert that the examination was incorrectly marked to meet the requirement for a clearly justified application. It must be clear from the justification to which extent the contested correction of the examination constitutes a legal violation, by providing substantiated and



convincing evidence of what has been wrongly corrected. A general reference to the comments in the specimen answer with a request to review the relevant places in the examination paper once more is not acceptable, since a general re-mark by the professorial chair is not an option in the appeal procedure.

### 3.2 Reasons for an appeal

According to § 46 para. 4 UniG, legal violations and breach of process regulations may be possible reasons for an appeal:

- The arbitrary evaluation of an examination is regarded as a legal violation, for instance. According to the established practice of the Federal Supreme Court, arbitrariness exists in the application of law if the contested decision is obviously untenable, clearly conflicts with the actual situation, is a gross violation of a norm or an undisputed legal principle or is glaringly contrary to the principle of fairness (BGE 136 I 316 E. 2.2.2).
- An arbitrary evaluation exists, for instance, if the examining authority exercises its discretion erroneously in the evaluation, i.e. exceeds or undercuts or abuses it. However, the decision on the maximum number of points given for each answer and the weighting applied within the individual tasks is left to the discretion of the examining authority. As long as discretion is exercised equally, strict use of discretion does not constitute a legal violation either.
- Objections of inappropriate assessment are excluded in accordance with § 46 para. 4 UniG. A review of discretion is therefore not possible by law. The sense and purpose of this provision is that the appeals authority is not to give its assessment instead of the examining authority. The appeals authority therefore does not review all the details of the contested evaluation of an examination but only a summary thereof. The appeals authorities will only intervene when the justification of an evaluation of an examination is not comprehensible or the student evaluation is obviously incorrect.
- A breach of process regulations may apply, for instance, if an examination was not conducted correctly. Questions of process generally relate to the external process of the examination. Considerable disruptions to the examination process or deviations from provisions specified in the regulations count as procedural irregularities. However, this does not mean that each minor disruption is sufficient to substantiate an objection based on a procedural irregularity. The impairment must be so severe that the candidate's performance and knowledge are significantly impaired and the result of the examination is distorted as a result. The key point is that the procedural irregularity, which is the subject of the objection, was responsible for the grading. If a procedural irregularity is established, this will lead to the examination being annulled as a rule.

### 3.3 Sequence and duration of the procedure

Receipt of the appeal will be confirmed by the Legal Office of the Dean. Appeals that do not meet the formal requirements described above will not be considered. If the appeal meets the formal requirements, the examiners in question will be asked to comment on the appeal. The Faculty Council will make a decision on the basis of these comments.

In principle a reformatio in peius is possible in the appeal process (similar to § 27 VRG), i.e. the Faculty Council may also amend the grade to the detriment of the appellant. However, a reformatio in peius shall only apply if the grade awarded for an examination paper by the examiner is an obvious error of law (cf. Kommentar VRG (Notes), 3rd edition, Sect. 27 N 7 et seqq.).

As a rule, the process (from receipt of the justified appeal until a decision is reached) may be expected to last two to three months.



### **3.4 Information**

The Legal Office of the Dean does not provide any content-related legal advice on the appeal process. However, it does provide information on the status of the process. Questions as to whether the student can continue the studies or questions about booking modules must be addressed to Student Advisory Services.

## **4 Recommendations by the Legal Office of the Dean**

We recommend that you start by looking at your own academic achievement and checking carefully whether an appeal has a chance of success. Not every inconsistency with the specimen answer constitutes a marking error. The specimen answer is only a guideline, which presents possible approaches and the aspects that must be covered. It is therefore advisable to discuss a detailed review of your own academic achievements with a neutral person as well.

The Legal Office of the Dean must be contacted in the case of obvious errors by the Student Administration Office, such as transfer errors or incorrectly calculated points, and clarification sought as to how to proceed from here.

Legal Office of the Dean, August 2022