



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 (RVO) stipulates that changes to academic achievements on the transcript of records and decisions on the acknowledgment of achievements are subject to the option of appeal to the Faculty Council. The appeal is to be submitted within 30 days of receipt of the transcript of records to the Dean's Office of the Faculty of Law at the University of Zurich, Rämistrasse 74/2, 8001 Zurich. In accordance with Sect. 46 (3) RVO, the student evaluation will only be reviewed for legal violations and breach of process regulations. Objections of inappropriate assessment are excluded (cf. Sect. 46 (4) University Act).

An appeal may be lodged against the decision by the Faculty Council on whether achievements are to be credited with the Appeals Commission of the Universities of the Canton of Zurich (cf. Sect. 46 (4) RVO and Sect. 46 (2) University Act).

Use the link below for more information about the appeals procedure:

<http://www.hsa.zh.ch/internet/bildungsdirektion/hsa/de/rekurskommission/verfahren.html>

2 Examination results and transcripts of records

Examination results are accessible from the middle of February and from the middle of September. The transcripts of records will be dispatched somewhat later. The 30-day appeal period shall start on receipt of the transcript of records. The examinations shall be made available to download on the same date. Facts, specimen answers, grading scales and statistics about the examination are also accessible.

3 Procedure

3.1 Letter of appeal: Requirements

The appeal must meet the following conditions:

- The appeal must be lodged in writing and signed. Appeals by e-mail are not admissible.
- 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 marks 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 Sect. 46 (3) RVO, 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 marks given for each answer and the weighting applied within the individual examination questions 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 Sect. 46 (4) University Act and Sect. 46 (3) RVO. 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. An 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 Department of the Dean's Office. 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.

A *reformatio in peius* is possible in principle in the appeal process (similar to Sect. 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 Department of the Dean's Office 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 or the Mobility Office.

4 Recommendations by the Legal Department of the Dean's Office

We recommend that you start by looking at your own academic achievements 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 by the candidate. It is therefore advisable to discuss a detailed review of your own academic achievements with a neutral person as well.

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

Legal Department of the Dean's Office, September 2016