

Fact sheet concerning the Appeal Committee / appeals system

This fact sheet is an information service provided by the Appeal Committee from which no legal rights can be inferred.

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1. Competence and tasks of the Appeal Committee

Pursuant to Art. 42(1) of the University Act of 26 May 1988 (No. 217.11, Consolidated Statute Book of the Canton of St.Gallen; UG), rulings made by university bodies on the strength of course or examination regulations can be appealed against by means of an appeal lodged with the Appeal Committee. Contested rulings regarding examination results are only checked for unlawfulness (Art. 45 UG). It is not the Appeal Committee's task to reassess examinations in lieu of expert examiners if the latter's assessments are deemed by the appellant to be too harsh, too severe or inappropriate: the exercise of discretion is unreviewable.

2. Composition of the Appeal Committee

As an intramural appeal instance, the Appeal Committee is solely made up of members of the University of St.Gallen. Nonetheless, its members are not bound by any instructions in relation to other university bodies, and they are independent in their decision-making. When the Appeal Committee deals with an appeal against a ruling made by a School or the University Administration in which a committee member was involved, then this member will ex officio recuse himself or herself. If an appellant asserts other reasons for a committee member to recuse himself or herself (Art. 7 Administrative Procedure Act of 16 May 1965, No. 951.1, Consolidated Statute Book of the Canton of St.Gallen; VRP), a demand for this measure must be stipulated in his/her appeal.

Pursuant to Art. 42(2) UG and Art. 116 of the University Statutes of 25 October 2010 (No. 217.15, Consolidated Statute Book of the Canton of St.Gallen; US), the Appeal Committee consists of three to five professors and a representative each of the Junior Faculty and the Student Union. Traditionally, care is taken to ensure that each School of the University of St.Gallen is represented by one member.

At present, the Appeal Committee is made up of the following members:

President: Prof. Dr. Benjamin Schindler

Prof. Dr. Thomas Berndt

Prof. Dr. Enrico De Giorgi

Dr. Karen Lambrecht

Prof. Dr. Ulrike Landfester

Irina Kopatz

Substitute members:

Prof. Dr. Patricia Egli

Prof. Dr. Dennis Gärtner

Prof. Dr. Andreas Grüner

Prof. Dr. Isabella Hatak

Prof. Dr. Ulrich Schmid

Dominik Buchegger

3. Access to Examination performance

The access to examination performance - as part of the legal hearing in accordance with Art. 29 BV (right to inspect files) - enables students to view their own examinations and the correction criteria. It is not part of the appeal procedure. If the inspection of the examination reveals obvious correction deficiencies - such as incorrectly added up points or unintentionally ungraded examination questions - these must be corrected by the person responsible for the examination by means of a "Request for Grade Correction to the Dean of Studies".

Note: Such a "Request for Grade Correction" **has no influence** on the appeal period (Art. 27 VRP).

In principle, the examination is open for access before the end of the appeal period stated in legal remedy. Otherwise, it is recommended to contact the secretariat of the Appeals Commission (see point 8.).

4. Overview / Appeal Procedure

4.1 Steps in the appeal procedure

The appeal procedure is governed by the Administrative Procedure Act. The individual **steps in the procedure** can be outlined as follows:

- the appeal must be lodged within 14 days after notification of the ruling; this is a statutory period which may not be extended as a matter of principle (Art. 47(1) VRP). If the legal remedy communicated with a notification of grades or an admission ruling refers to a longer period, the appeal may be lodged within this longer period. If the grounds of appeal have to be completed – for instance if a student is unable to inspect

his or her examination papers during the period granted to lodge an appeal – an additional period may be granted (Art. 48(2) VRP);

- possibly making an advance payment of CHF 250.–;
- comment by the faculty member (in the case of examinations) or the University Administration (in the case of admission rulings);
- notification that the documents are complete and determination of a deadline for the submission of a supplementary appeal petition or for the withdrawal of the appeal (which is free of charge);
- meeting of and ruling by the Appeal Committee, which deals with most cases orally and meets four to five times a semester;
- notification of the ruling and possibly new notification of grades or admission ruling;
- if the appeal is rejected, possibility of referring it to the University's Board of Governors.

4.2 Duration of the appeal procedure

We would like to apologise for any inconvenience if adherence to these procedural steps results in a certain duration of the procedure. In the last few years, the treatment of an appeal from the point in time when the (reasoned) appeal petition was received until the notification of the ruling took two to three months.

The parties to the procedure are able to make a crucial contribution to a speedy procedure by only applying for an extension of the appeal period in emergencies and by refraining from prolix pleadings in their legal documents (cf. Federal Supreme Court ruling 2P.44/2007 dated 2 August 2007, E. 6).

4.3 Effect of an appeal

In principle, an appeal has a suspensive effect (Art. 51(1) VRP). The term suspensive effect denotes the fact that the legal consequence prescribed by the ruling does not become effective until the conclusion of the appeal procedure. **In cases in which the appeal does not have any impact on a pass grade, the suspensive effect will automatically be waived in order to enable the student to pass on to the next higher Level, to obtain his or her doctor's degree or to graduate.** If the appeal is granted, the notification of the new grades will be accompanied by a corrected degree certificate (against submission of the old certificate). The grade against which the appeal has been lodged will remain on the system's books as awarded until the Appeal Committee's decision.

If a student has only passed the examinations of one Level once the appeal has been granted, the suspensive effect will continue to apply in order to prevent any abuse. Students will not be able to obtain an academic degree at any Level. **They will be able to continue their studies on a provisional basis in accordance with the practice of the Dean of Studies only on the first attempt of the Assessment Year from the 1st to the 2nd semester and from the 2nd to the 3rd semester, at their own risk (any examinations passed previously will become null and void if the appeal is refused).** Academic Affairs & Student Services urgently recommend, however, that students should tackle the 2nd attempt of the Assessment Year.

4.4 Grounds of appeal

Appeals against grades can only be checked for unlawfulness (Art. 45 UG); the exercise of discretion is therefore unreviewable. Cases of unlawfulness include a violation of provisions of examination regulations or an arbitrary assessment of an examination. In accordance with the case law of the Federal Supreme Court, arbitrariness in the application of law is given if the contested ruling is evidently untenable, is in clear contradiction to the actual situation, blatantly violates a norm or an undisputed legal principle or runs counter to the notion of justice in an objectionable manner (Federal Supreme Court ruling 136 I 316 E. 2.2.2, pp. 318f.).

4.5 Procedural Costs

When an appeal is rejected, costs of **CHF 100.— to 500.—** are incurred (Art. 13 of the Fee Regulations of the University of St.Gallen of 27 February 2006 in conjunction with Art. 2.1(a) of the Fee Regulations of the University's Board of Governors of 27 February 2006).

Students who lodge an appeal are asked to make an **advance payment of CHF 250.—**. Students who are abroad for the duration of the appeal procedure are additionally asked, on receipt of the appeal, to **indicate a mailing address in Switzerland** (such as a fellow student's address). If the appellant fails to do so, the appeal will not be considered.

5. Drawing up an appeal petition

The appeal petition has to be submitted to the Appeal Committee in writing. It must contain an application, as well as a description of the facts of the case and the grounds for the appeal. It must be signed and dated (Art. 48(1) VRP). The appeal petition must be accompanied by the contested ruling and any other relevant documents and evidence (Art. 50(1) VRP). In the case of examinations, this concerns the relevant examination fact sheet, in particular.

The appeal petition should be structured as follows (recommendation):

- Description of the facts of the case: the facts of the case must be described briefly, clearly and in their entirety. They must be documented with the necessary copies.
- Grounds: it must be explained clearly why there is an instance of unlawfulness and why the appeal is justified; sweeping allegations of an arbitrary assessment are not sufficient.
- Application: the appeal petition must contain an unequivocal application, for example for an increase in the score by XY and an upward revision of the grade to XY, for resitting the examination or for admission to a certain degree course.

We accept appeals written in English but will have to notify appellants of, and state the reasons for, our rulings in the Canton's official language, which is German.

6. Further appeal instances

The Canton of St.Gallen has three stages of appeal for the contestation of university examination rulings. Rulings by the Appeal Committee must be appealed against before the **University's Board of Governors** before it is possible for an appeal to be lodged with the **Cantonal Administrative Court** (Art. 44 UG; Art. 59bis(1) VRP). The ruling by the Cantonal Administrative Court is subject to appeal to the **Federal Supreme Court**.

7. Advisory service of the Student Union

The Appeal Committee does not provide any substantive legal information. It only provides information about the status of the procedure and administrative concerns on request. However, the Student Union provides free appeal advice for students. It offers useful tips for legal questions connected with drawing up appeal petitions (particularly with regard to the grounds for an appeal).

Website:

<https://shsg.ch/de/services/rekursberatung>
[SHSG / Services / Legal Services](#)

Contact: rekursberatung@shsg.ch

8. Contact

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Sekretariat Rekurskommission
Guisanstrasse 1a
9010 St.Gallen

Mail: rekurskommission@unisg.ch

Or

University of St.Gallen
Secretary's Office Appeal Committee
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Mail: rekurskommission@unisg.ch

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