



UMEÅ UNIVERSITY

PROCEDURE – APPEALS

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Summary

This procedure concerns the regulations governing handling of appeals by Umeå University and is based on the Swedish Administrative Procedure Act (2017:900) and the provisions that follow from it.

This procedure does not address how *complaints* to the Swedish Higher Education Authority (UKÄ) and the Parliamentary Ombudsman (JO) are handled. For the Equality Ombudsman (DO), this procedure deals only with *appeals* to the Higher Education Appeals Board (ÖNH) where discrimination questions formed grounds for assessment in a decision by the University, not with *complaints* to DO. With regards to employment issues, only the handling of appeals against employment decisions is dealt with.

This procedure primarily focuses on decisions taken and can be appealed under the Higher Education Act (1992:1434) and the Higher Education Ordinance (1993:1009) and decisions that can be appealed to the Higher Education Appeals Board under other legislation. Large parts of the contents are, however, also applicable to appeals against other decisions. The procedure is intended to be used to support the work of the University.

Introduction

An appeal is initiated through a written request to the University to change a decision. When the University has received the appeal, it must be registered, see Section 11. If the purpose of the letter is unclear, it may be necessary to contact the appellant to assess whether the letter



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is an appeal, a request to amend a decision or whether the appellant wants another outcome. The next step is to assess whether the decision *can* be changed in whole or in part. Refer to Section 6 below for correction and amendment of decisions.

The University must then consider whether the appeal has been received in due time, i.e., three weeks from the time the appellant was made aware of the decision. This is the only formal requirement for the University to check because other formal requirements are examined by the appeals body. If the appeal has been received too late, it will be dismissed. *Annex 2* contains examples of how a dismissal decision can be formulated. If the appeal has been received in due time, it must be submitted to the appeals body with or without a statement of opinion by the University.

The appeal must still be submitted to the appeals body even if Umeå University, following a reassessment, decides to change the decision in the favour of the appellant. The appeal will then be deemed to also cover the new decision. This is in accordance with a new provision in the Administrative Procedure Act valid from 1 July 2018.

Once Umeå University has sent the appeal to the appeals body, the University relinquished the case, which means that the University is no longer able to consider the case or make any decision in the matter.

When the appeal has been received by the appeals body, it will only be examined if the formal requirements have been met. Such examination considers whether this concerns an appeal, whether the decision can be appealed, that the appellant is entitled to lodge an appeal, that the appeal has been sent to the correct appeal authority, etc. If these conditions are met, the appeals body will consider whether the appeal is to be approved or whether it is to be rejected, in whole or in part.

When the appeals body has handed down a decision in the matter, it is sent to the appellant and Umeå University.

1. What is an appeal?

1.1 The document contains the word ‘appeal’ or similar

Normally, a document entitled ‘Appeal’ (or similar) will be received from a person to whom the University has given notification of a decision with which the person is not satisfied. If this is the case, or if the document is addressed to the Higher Education Appeals Board or the Administrative Court, the document will be treated as an appeal.

1.2 The document does **not** contain the word ‘appeal’ or similar

A document may be an appeal even if the *word* ‘appeal’ is not used in the document. If the person who submitted the document expresses themselves in such a way as to indicate that they wish, or may be deemed to wish, that the decision be altered in some way or that the



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person is dissatisfied with the decision, it may be an appeal. In these cases, a generous interpretation of the document's character is to be made. It may sometimes be necessary to simply ask the person who submitted the document to clarify the intention behind the wording of the document. The right to appeal an authority's decision is dealt with unilaterally by the individual concerned by the decision. If it is not possible to obtain clarification of the intention of the letter within a reasonable timeframe, the letter should be considered an appeal if it contains any kind of request for the decision to be changed.

1.3 Appeal or reassessment?

It may be difficult to know whether a person wants to appeal a decision or whether the person wants the decision to be reassessed. If the person explicitly states that they are requesting a reassessment or makes it clear that they assume the University will conduct a reassessment, there is rarely any reason to consider the letter an appeal. However, if the letter is addressed to the Higher Education Appeals Board or the Administrative Court, it can be assumed in principle that it is an appeal. Whenever a decision is appealed, however, the University must always consider whether to conduct a reassessment of the decision (see Section 6 below).



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2. What decisions may be appealed?

2.1 General information about which decisions can be appealed

It is clear from the Administrative Procedure Act (FL) that an appeal may be brought against a decision if the decision is likely to affect a person's situation meaningfully (FL, Section 41). A decision may be appealed by the relevant person if the decision is against the person's wishes (FL, Section 42).

In other words, the Administrative Procedure Act does not *specifically* state what types of decisions can be appealed. Appealable decisions are determined, instead, by special regulations and by rules that have been developed through precedence. The table in Section 2.3 provides information about the decisions taken by the University pursuant to the Higher Education Act and the Higher Education Ordinance and the decisions taken by the University that can be appealed to the Higher Education Appeals Board pursuant to other regulations.

Appealable decisions are not limited to those involving the University examining a matter of substance. An appeal may also be submitted for a decision to dismiss a case or to reject an application or an appeal. Such decisions are appealed to the same body, within the same timeframe and in the same way as a substantive decision in the same case.

For information on *who* has the right to appeal, see Section 3 Who may appeal?

2.2 Who determines whether a decision can be appealed?

Decisions on whether a decision can be appealed are not made by the University. This question is examined on its own initiative by the appeals body, i.e., the Higher Education Appeals Board or the Administrative Court.

The appeals body examines both the question of whether it is possible to appeal the decision (according to a rule or according to practice) and the appeal itself. If the Higher Education Appeals Board (ÖNH) or the Administrative Court decides that the decision cannot be appealed, ÖNH or the Administrative Court will formally reject the appeal.

The appeal will be rejected by the appeals body even if the decision erroneously contains instructions on how to appeal.

The question of whether a decision can be appealed will be examined before the question of whether the appellant has the right to appeal the decision, that is, whether the decision has been appealed by the right person. This means that if the decision cannot be appealed, the appeals body does not have to consider whether the appellant is entitled to appeal the decision.



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2.3 Decisions that can be appealed

The table below shows which decisions can be appealed under the Higher Education Act and the Higher Education Ordinance and which decisions must be appealed to the Higher Education Appeals Board (ÖNH) under other regulations. (See also Annex 3 – Which decisions can be appealed to the ÖNH?)

It should be noted that in practice there have been cases where a decision has not been deemed to have been taken pursuant to the Higher Education Ordinance but under the Swedish Administrative Procedure Act, so that it has been possible to appeal the decision under the Administrative Procedure Act (cf. case 4546-18 at the Administrative Court of Appeal in Stockholm, handed down 10 January 2019). This appeal route is not included in the table below because it is considered that such situations are currently unlikely to occur.

Type of decision	Section of the act	Appealed to	Comments
<i>Expulsion, suspension and warning</i>			
Decision on disciplinary measure due to an offence pursuant to Chapter 10, Section 1 of the Higher Education Ordinance,	Chapter 12, Section 3 of the Higher Education Ordinance, and Section 40 Administrative Procedure Act	General Administrative Court (right of first instance)	Only decisions of the Disciplinary Board concerning suspensions and warnings can be appealed under the Administrative Procedure Act.
Decision on suspension due to unpaid tuition fees	Section 13 of the Ordinance on application fees and tuition fees at higher education institutions	ÖNH	
Decisions on expulsion	Chapter 4, Section 7 of the Higher Education Act	General Administrative Court (the Administrative Court as first instance)	The Higher Education Expulsion Board is the body that first examines expulsions (see Ordinance 2007:989).



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Type of decision	Section of the act	Appealed to	Comments
Employment			
Employment decisions	Chapter 12, Section 2, p. 1 of the Higher Education Ordinance	ÖNH	<p>Does not apply to employment of doctoral students.</p> <p>The appeal case will be handled by a human resources specialist or equivalent in consultation with a legal officer. Please note that special rules apply to the handling of appeals in such cases.</p>
Entry requirements			
Decisions that entry requirements have not been met for admission to a course	Chapter 12, Section 2, p. 3 of the Higher Education Ordinance	ÖNH	Applies to admission to courses at first- or second-cycle level; apart from certain teacher training programmes that earn qualifications, see the row below.
Decisions that entry requirements have not been met for admission to certain teacher training programmes that earn qualifications	Section 31, p. 1 of Ordinance (2011:689) on certain qualifications that provide qualified teacher status for teachers and pre-school teachers and on higher education programmes for the continuing professional development of teachers and educators at pre-schools that lead to qualifications in education or pre-school education	ÖNH	Applies to certain qualifying teacher training programmes.



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Type of decision	Section of the act	Appealed to	Comments
Decision not to make exemptions from certain entry requirements	Chapter 12, Section 2, p. 3 of the Higher Education Ordinance	ÖNH	Applies to specific teacher training programmes that earn qualifications and concerns cases in which exemptions from the entry requirements in Chapter 7, Section 3, the second sentence and Section 28 of the Higher Education Ordinance are not considered to be fulfilled.
Decision not to make exemptions from entry requirements for specific teacher training programmes that earn qualifications	Section 31, p. 2 (SFS 2011:689)	ÖNH	Applies to specific teacher training programmes that provide qualifications and concerns cases in which exemptions from the entry requirements in Chapter 7, Section 3, second sentence of the Higher Education Ordinance, are not considered to be fulfilled.
<i>Transfer of credits and exemption from compulsory elements of a course or study programme</i>			
Decisions on transfer of credits for courses and study programmes or professional or vocational activities	Chapter 12, Section 2, p. 4 of the Higher Education Ordinance	ÖNH	Does not apply to students on specific teacher training programmes that earn qualifications, see instead the row below.
Decision on transfer of credits for courses and study programmes or activities for students on certain teacher training programmes that earn qualifications	Section 31, p. 3 (SFS 2011:689)	ÖNH	Pursuant to Chapter 6, Section 8 of the Higher Education Ordinance Applies to students on specific teacher training programmes that earn qualifications.



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Type of decision	Section of the act	Appealed to	Comments
<i>Transfer of credits and exemption from a compulsory element of a course or study programme, continued</i>			
Decision to reject a request for exemption from a compulsory element of a course or study programme	Chapter 12, Section 2, p. 5 of the Higher Education Ordinance	ÖNH	Does not apply to students on specific teacher training programmes that earn qualifications, see instead the row below.
Decision to reject a request for exemption from a compulsory element of a course or study programme for students on specific teacher training programmes that earn qualifications	Section 31, p. 4 (SFS 2011:689)	ÖNH	Applies to students on specific teacher training programmes that earn qualifications.
<i>Course certificate</i>			
Decision to reject a request concerning a degree certificate or course certificate	Chapter 12, Section 2, p. 7 of the Higher Education Ordinance	ÖNH	Does not apply to students on specific teacher training programmes that earn qualifications, see instead the row below.
Decision to reject a request for a degree certificate or course certificate for students on specific teacher training programmes that earn qualifications	Section 31, p. 5 (SFS 2011:689)	ÖNH	Applies to students on specific teacher training programmes that earn qualifications.
<i>Deferment and approved leave from studies</i>			
Decision not to grant a deferment from starting a course	Chapter 12, Section 2, p. 8 of the Higher Education Ordinance	ÖNH	Valid for admission to first- or second-cycle level
Decision not to permit someone to continue their studies after approved leave from studies	Chapter 12, Section 2, p. 8 of the Higher Education Ordinance	ÖNH	Valid for admission to first- or second-cycle level
<i>Doctoral students' resources and doctoral grants</i>			
Decision to withdraw resources for a doctoral student's education	Chapter 12, Section 2, p. 6 of the Higher Education Ordinance	ÖNH	Pursuant to Chapter 6, Section 30 of the Higher Education Ordinance



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Type of decision	Section of the act	Appealed to	Comments
Decision to not restore resources to a doctoral student after resources were withdrawn	Chapter 12, Section 2, p. 6 of the Higher Education Ordinance	ÖNH	Pursuant to Chapter 6, Section 31 of the Higher Education Ordinance
Decision to demand repayment of doctoral grant for doctoral students	Section 16 of the Ordinance (1995:938) on grants for doctoral students	ÖNH	Repayment requirement according to Section 15 of the Ordinance (1995:938) on grants for doctoral students
Discrimination			
Decisions on education that put a person with a disability at a disadvantage as defined in the Discrimination Act (2008:567).	Chapter 4, Section 18 of the Discrimination Act	ÖNH	Pursuant to Chapter 1, Section 4, p. 3 of the Discrimination Act. This may be that accessibility measures have not been taken that would provide the person a comparable situation as a people without a disability.
Discriminatory decisions on education where the decision concerns <ul style="list-style-type: none"> - admission to education, - credit transfer from previous education, - deferment of studies or continuation of studies after an approved leave from studies, - change of supervisor, - withdrawal of supervisors and other resources in doctoral education, doctoral grant for doctoral students, or - an intervention with a student 	Chapter 4, Section 18 of the Discrimination Act	ÖNH	Pursuant to Chapter 2, Section 5 of the Discrimination Act, which is the subject of the prohibition of discrimination in the education system. Note that <i>complaints</i> to the Equality Ombudsman (DO) regarding supervision are not covered by this procedure.
Decision that are contrary to the ban on reprisals	Chapter 4, Section 18 of the Discrimination Act	ÖNH	Pursuant to Chapter 2, Section 19 of the Discrimination Act
Student union matters			
Decision to grant a student union status as an association	Section 10 of the Student Union Ordinance	ÖNH	
Decision that a student union should no longer have such status	Section 10 of the Student Union Ordinance	ÖNH	



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3 Who may appeal?

3.1 Anyone whose situation is affected by the decision meaningfully

An appeal may be brought against a decision if the decision is likely to affect a person's situation meaningfully. The decision may be appealed by the relevant person if the decision is against the person's wishes. In other words, not just anyone can appeal a decision. The person concerned must have such an interest in the matter that the decision affects their legal position or the decision concerns an interest recognised by the legal framework. A third-party may not appeal on behalf of someone else.

However, deciding who can appeal a decision is rarely a problem. In the case of decisions taken under the Higher Education Act and the Higher Education Ordinance and other decisions appealed to the Higher Education Appeals Board, the right to appeal is held by the person to whom the decision applies.

3.2 Who decides whether a person has the right to appeal a decision?

The University does not decide whether a person has the right to appeal a decision. This question is examined on its own initiative by the body or court, i.e., the Higher Education Appeals Board or the Administrative Court, that will hear the appeal.



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4 Instructions on how to appeal

4.1 General

If the University makes a decision that can be appealed, it has an obligation to provide instructions on how a party can appeal, i.e., appeal instructions.

The instructions on how to appeal must be provided with the decision and must be in writing.

The following information must appear in the instructions on how to appeal:

- That the appeal must be in writing
- That the appeal is to indicate which decision is being appealed and how the appellant wants the decision to be changed
- The time limit for the party to appeal (in most cases, an appeal must be received by the authority within 3 weeks of the date that the appellant was informed of the decision)
- Where to send the appeal (i.e., to the University)
- Which body will review the appeal and that the appeal must be (addressed) to that body (please note, however, that the appeal must still be sent to the University)

It is also appropriate to provide information on how the appeal will be administered.

It is not sufficient to attach a leaflet referring to a legal provision that states that the decision may be appealed. It is also not sufficient to simply state that the decision can be appealed and refer to further information on the University's website.

Annex 1 contains examples of how instructions for appeals can be formulated.

4.2 Special provisions for employment matters

There are special provisions for employment matters regarding how information about the University's decision should be provided and how to calculate the time for appeal. According to the general rule in Section 7, paragraph 1 of the Employment Ordinance (1994:373), information about an authority's decision on employment is to be posted on the authority's notice board.



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A notice pursuant to Sections 7-8, of the Employment Ordinance must contain information on

1. the date it was posted on the notice board (posted)
2. the appeal procedure
3. any dissenting opinions recorded in the minutes or in any other document

When the information pursuant to Section 7, paragraph 1, is provided about an employment decision, the period for appealing the decision is counted from the date on which the information was posted on the authority's notice board (cf. Section 22 of the Employment Ordinance).



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5 How and where can a decision be appealed?

5.1 How to appeal a decision?

A decision must be appealed against in writing. This means that an appeal can be submitted by post, email or fax. A person who calls the University, wanting to appeal a decision should therefore be asked to submit a written appeal. The appeal must be in writing, as stated in Section 43 of the Administrative Procedure Act. However, it does not matter what technical format the appeal is submitted in.

In the appeal, the appellant must state which decision is being appealed and the change to the decision they are requesting. The change request need not be particularly clearly formulated. It is sufficient for the request to be clarified by a reasonable and generous interpretation of the letter. It is also possible to submit a “blank” appeal, i.e., simply to write that they are appealing the decision and then later explain the change requested and the grounds for the appeal.

The appeal must be filed with the authority that has taken the decision (but addressed to the appeals body, see Section 4). The University must then decide whether the decision should be changed and whether the appeal has been received in due time. Read more about changing decisions in Section 6 and about the review of time limits in Section 7. If a letter is incorrectly sent directly to the appeals body, the appeals body will assist the appellant by submitting the appeal to the University. See Section 7.3 for more information.

5.2 Where to appeal a decision?

All decisions that can be appealed that are made pursuant to the provisions of the Higher Education Act and the Higher Education Ordinance must be appealed to the Higher Education Appeals Board, except for decisions made by the Disciplinary Board concerning suspensions and warnings. Those decisions are instead appealed to the Administrative Court.

Appeals of decisions regarding teaching degrees, discrimination, student unions, tuition fees and the demand for repayment of grants for doctoral students can also be submitted to the Higher Education Appeals Board.

Decisions appealed to the Administrative Court are appealed to the Administrative Court within whose jurisdiction the matter was first decided. This means that decisions taken by Umeå University must be appealed to the Administrative Court in Umeå.

See the table in Section 2.3 for more information about which decisions are appealable. The table also indicates where to submit an appeal.

See Annex 4 for the documents to be sent with the appeal to the Higher Education Appeals Board.



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6 Correction and changes to decisions

6.1 Correction of clerical errors and similar errors

A decision containing an obvious irregularity as a result of the University's clerical errors, errors in calculations or similar errors must be corrected by the University in accordance with Section 36 of the Administrative Procedure Act. If this applies to an incorrect grading decision, it must be corrected pursuant to Chapter 6, Section 23 of the Higher Education Ordinance.

There is no time limit for when the correction must be made, but as the option to correction relates to obvious irregularities, it is unusual for an error to be detected long after the decision was made.

For this to be an obvious irregularity, and what is known as an oversight error that can be corrected, it must be possible for the error to be detected by normal observation and be indisputable. The error must be able to be detected either by a review of the decision itself or by a simple comparison of case documents. Examples could include incorrect names, years and amounts. Another example of when a correction can be made could be where the body has stated in its grounds for the decision that it can approve an application only with a specific limitation but has not included the limitation in the decision itself. Errors of judgement, i.e., errors due to inadequate examination, incorrect assessment or incorrect application of the law, cannot be corrected. However, such errors can sometimes be changed, see Section 6.2.

Corrections may be made on the initiative of the University or following notice by the party or a third party. There is no obligation to correct a decision, but if the error is of practical significance, the University should do so. Therefore, minor errors, such as misspelled names, do not need to be corrected. However, if a party explicitly requests that decisions be corrected, the University should do so even if the University itself does not consider it necessary.

Before a decision is taken, the University must give the party the opportunity to express their opinion before correction is made, unless it is unnecessary to do so.

6.2 Change of decision

Section 38 of the Administrative Procedure Act states when an authority is required to change its decisions. If the issue concerns an incorrect grade, Chapter 6, Section 24 of the Higher Education Ordinance states when the examiner is required to reassess the decision. Note that the term 'reassess' (Sw: *ompröva*) is no longer used in the new version of the Administrative Procedure Act. The term 'change a decision' (Sw. *ändra ett beslut*) is used in



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its place. Following a request for a decision to be changed, a reassessment is carried out which may lead to a change to a decision.

In addition to these provisions, there is also an option under Section 37 of the Administrative Procedure Act for the body to change taken decisions under certain conditions. See more about this below under the heading “When a body **may** change a decision”.

Reassessment of decisions that may result in amendment or change must be carried out by the decision-maker at the University who made the original decision. A request by a party for a change of decision must, as a general rule, be in writing.

When a body **must** change a decision

Pursuant to Section 38 of the Administrative Procedure Act, a body must change a decision when

1. the decision is manifestly incorrect in a material respect because new circumstances have arisen or for another reason,
2. the change can be made quickly and easily, and
3. the change does not disadvantage any individual party.

Note that if this is a *decision concerning grades*, the change must be implemented in accordance with Chapter 6, Section 24 of the Higher Education Ordinance.

Manifestly incorrect

The obligation to change a decision applies only if it can be easily established that the decision is incorrect, for example because new circumstances have arisen that have an impact on the judgement. The University should not have to conduct a detailed review of an already decided matter. The obligation to change an appealed decision only requires that reading the appeal and the contested decision leads to understanding that the decision was wrong.

Quickly and easily

Furthermore, the obligation to change a decision applies only if the change can be made quickly and easily. It must not prolong making the final decision or lead to a more complicated or more expensive procedure. The obligation to change a decision does not normally apply if further investigation is required.

Does not disadvantage any individual party

An additional assumption for requiring a change is that it can be made without being to the detriment of any individual party. There is, therefore, no obligation to withdraw a favourable decision. Nor is there an obligation to make onerous decisions more stringent. There may, however, be an obligation to withdraw or mitigate an onerous decision. There is no prohibition, however, on amending a decision to the detriment of one party. Read more



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about this and the terms ‘favourable decisions’ and ‘onerous decisions’ under the next heading “When a body **may** change a decision”.

When a body **may** change a decision

A favourable decision cannot, as a rule, be amended. Examples of favourable decisions could include someone being granted an authorisation for something or receiving funding. There are, however, three important exceptions to this rule. A favourable decision may be amended if:

1. it has been handed down because the individual has supplied false or misleading information (such as cheating and plagiarism),
2. there is a clear condition for withdrawal in the decision or if there is a condition in the ordinance on which the decision is based, or
3. where mandatory safety reasons require immediate amendment of the decision, e.g., in the event of health hazards, fire hazards and traffic hazards.

Onerous decisions, such as prohibitions and injunctions, may be amended to be both milder and stricter unless there are provisions that limit or exclude the possibility of amendment in a specific case.

A dismissal decision does not restrict the University in the future and can therefore be changed.

When a body may change a decision that has been appealed

An appeal decision may be amended by the body only in the cases referred to in Section 38 of the Administrative Procedure Act and only if the appeal and the other documents in the case have not yet been submitted to the higher court responsible for assessing the appeal.

If the University decides that the decision will not be changed, it does not need to make a formal decision. It is sufficient to inform the appeals body that the University has not found reason to change the decision pursuant to Section 38 of the Administrative Procedure Act, see Section 8.3 under the heading “What should a statement of opinion include?”.

If the University decides that the decision can be *partially* amended (partly approved), it will make a new decision and submit it with the appeal to the appeals body.

If the University decides that the appealed decision **must** be changed *in full* (full agreement), it must make a new decision and submit this new decision to the appeals body together with the original decision. In this way the appeal does not take place before the University has changed its decision, but the appeal is considered to include the new decision. Therefore, the appellant does not have to appeal the new decision to make it subject to review by the Higher Education Appeals Board. This means that it will be up to the appeals body to decide the extent to which the appellant’s wishes may be considered satisfied by the University’s



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approval. This is a new procedure that entered into force on 1 July 2018 with the new version of the Administrative Procedure Act.

No time limit

There is no time limit for making changes. As such, a decision to make a change can be taken at any time.

Who can initiate change?

Changes may be made on the initiative of the University, following a request for a reassessment of the decision by the party or after having been pointed out by someone else. As a general rule, such a request must be submitted in writing. A request for change *without* connection to a formal appeal must result in a decision, regardless of whether the original decision is amended or not. If a reassessment in connection *with* an appeal results in the University deciding to *not* change the original decision, the University does not need to make a formal decision. When the appeal has been submitted, it is sufficient to inform the appeals body that the University has not found any reason to change the decision pursuant to Section 38 of the Administrative Procedure Act.

Request for amendment or appeal?

It can sometimes be difficult to determine whether a person intends to appeal a decision or whether they want the University to reassess and amend the decision according to the person's wishes. Read more about this in Section 1.3.

6.3 Employment and promotion issues in more detail

Employment issues are considered multi-party matters. It follows from the provision in Section 38 of the Administrative Procedure Act that the University cannot, under this provision, amend a decision to the detriment of anyone. As such, the University cannot change an appealed decision on employment, even if the University sees that the decision is clearly incorrect and therefore expects the decision to be changed by the Higher Education Appeals Board. An amendment to the decision would, of course, be to the detriment of an individual party, and this is normally not allowed under Section 38 of the Administrative Procedure Act.

However, appeals against decisions about *applications for promotion* pursuant to Chapter 4, Section 12c of the Higher Education Ordinance are treated differently. There is only one party here, and the University can therefore change its decision if the conditions in Section 38 of the Administrative Procedure Act are met.



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7 Review of time limits

7.1 Length of the period of appeal

When an appeal has been received, the University must check whether the appeal has been lodged in due time. 'Due time' means that the appeal must have been received within three weeks of the date on which the appellant received the decision.

This refers to the three-week time limit set in Section 44 of the Administrative Procedure Act or to the time limit provided for in any special regulation, which is therefore understood as the 'due time'. The point in time when the individual was informed of the decision by the University's actions, e.g., notification of the decision, is decisive for calculation of the time limit. The time limit does not, for example, start if the individual has been informed of the decision in any other way than by a measure taken by the University.

Review of time limits is particularly important in employment cases because these cases are multi-party cases. There is a specific provision in Section 22 of the Employment Ordinance for these cases. When the information pursuant to Section 7, paragraph 1 of the Employment Ordinance is provided about an employment decision, notification is also to be given that the period of appeal for the decision is counted from the date on which the information was posted on the body's notice board.

If the final day is on a Saturday, Sunday, Midsummer's Eve, Christmas Eve, New Year's Eve or other public holiday, the final date will be the next workday instead. See the Act (1930:173) on calculation of statutory time limits.

The appellant is responsible for ensuring that an appeal is lodged within the correct time. This means that if an appeal does not reach the University within the three-week period, the appellant will be affected by the dismissal of the appeal. See Section 7.3.

An appeal has been received by the University when it has arrived at the appeals body. It must have been received before 12 midnight. If the appeal is in the University's (physical) mailbox in the morning, it is considered to have been received before 12 midnight the previous day.

If the appeal has been sent by post, it is considered to have been received when it has been sorted for the appeals body at the post office. It does not matter whether the body is able to access the post. An appeal received by post will be deemed to have been received by the appeals body on the day before the date on which has been received by post at the University. No review needs to take place as to whether the letter in question has been sorted on behalf of the appeals body before or after midnight.



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If an appeal has been lodged with a competent official, for example at their home, it must be deemed to have arrived at the University on that date.

If the University does not know when the appellant has been served with the decision, as a general rule the University must assume that the appeal has been received in due time. However, a detailed review may be necessary if circumstances make it likely that the time limit for the appeal has been exceeded.

7.2 Amendment of decisions and time limit reviews

When an appeal has been received by the University, it must consider whether there are grounds to amend the decision. See Section 6. After that, a time limit review must be carried out.

7.3 What obligations does the University have if the appeal has been received too late?

The appeal will be dismissed

If the appeal has been received too late it will be dismissed. This means that the documents will not be passed on to the Higher Education Appeals Board or Administrative Court. A decision to dismiss the appeal requires the University to know the date or time that the appellant received the decision. Note, however, that for employment matters there is a special regulation in Section 22 of the Employment Ordinance (see Section 7.1, paragraph 3 above).

If the University does not know the time notification was received, it should be initially assumed that the letter has arrived at the right time, because it is the University that has the burden of proof that the appeal was received too late.

For example, it is not enough for the appellant to write that they know that the appeal has been received too late for the University to establish that the appeal was received too late. The University must be able to refer to a specific time to prove that the appeal was received too late (e.g., on a certain day).

In situations where it is not clearly apparent that the appeal has been received too late, no major investigation needs to be carried out. In these cases, the appeal is deemed to have arrived at the right time.

A dismissal decision is written as a separate decision. In connection with the decision, instructions for how to appeal are to be provided and the appellant is to be informed of the decision. See examples of dismissal decisions in Annex 2.



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Incorrect or incomplete instructions on how to appeal and incorrect transfer to an appeals body

Section 45, paragraph 2 of the Administrative Procedure Act contains two exceptions to the general rule that a late appeal should be dismissed by the University. Firstly, an appeal should not be dismissed if the delay is due to the University not having given proper notification of how to appeal. The requirement for the notification to be correct means that the University must have provided information on how to appeal when a decision may be appealed and that the content of information must be objectively correct as regards the time limit to appeal.

Secondly, an appeal cannot be dismissed if the appeal has been received by the appeals body within the period for appeal. It follows from Section 47, paragraph 2 of the Administrative Procedure Act that the appeals body in such a situation should help the appellant by forwarding the appeal to the University without examining whether it has arrived in time. At the same time, the appeals body must notify the date that it received the appeal, e.g., by affixing a date stamp showing the date of arrival. When the appeals body has passed the appeal on to the University, it is the responsibility of the University to deal with the matter in the same way as if the appeal had come directly to the University. If the appeal arrived at the appeals body within the three-week period, the appeal is deemed to have arrived in due time at the University.

7.4 What must the University do if the appeal has been received in due time?

If the University considers that the appeal has been received in due time, the letter and other documents must be handed over to the appeals body. The University does not need to notify of any formal decision that an appeal has been received in due time. However, it is appropriate to state in the accompanying letter or the statement of opinion sent with the appeal that the appeal was received in due time.

Note that the appeals body may decide that the contested decision will not be in force until further notice (inhibition).



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8 Forwarding an appeal to the appeals body – with or without a statement of opinion?

8.1 When should the appeal be forwarded to the appeals body?

Conditions for forwarding

The University must forward the appeal to the appeals body

1. regardless of whether the decision has been fully changed in accordance with the appellant's request (see Section 6); and
2. if the appeal has been received in due time (see Section 7).

If the University changes the decision in whole or in part, the appeal will be deemed to encompass the new decision.

How quickly must the appeal be forwarded?

Normally, an appeal should be forwarded within one week. The Parliamentary Ombudsman (JO) has repeatedly emphasised this and criticised authorities for delays.

In some cases, the appeal or the circumstances indicate that a minor review would probably suffice for the University to receive the information that it needs to enable it to change the decision in the way the party wishes. In these cases, there is scope for further review or await further information, provided that this is done quickly. In these cases, the maximum limit for forwarding is approximately two weeks.

8.2 Forward with or without a statement of opinion?

There is no *obligation* for the decision-making body to attach its own statement when forwarding an appeal. Instead, it has been left to the body to decide on a case-by-case basis whether it should attach its own statement of opinion.

However, the University should submit a statement of opinion in the following situations:

- if the matter is unclear or difficult to assess
- if necessary, to clarify the justification behind a decision
- to comment on any new and relevant information or arguments raised in the appeal
- if requested to comment by the appeals body (see Section 8.4)



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Can the statement of opinion be sent at a later date?

If it is not possible to draw up a statement of opinion without delaying the time for an appeal to be forwarded to the appeals body, the appeal should be forwarded without a statement. Even so, the appeals body should be informed if the University wishes to make a statement of opinion before the matter is decided, preferably stating a date when the statement will be sent. Appeals in employment cases normally follow this procedure.

8.3 What should a statement of opinion include?

A statement must always include the following information:

- Information about the new review of the decision and the time limit review;
- The University's position on the appeal;
- The University's assessment.

Information about the new review of the decision and the time limit review is stated thus:

“Umeå University has found no reason to change its decision pursuant to Section 38 of the Administrative Procedure Act (2017:900). The appeal has been received in due time.”

Position

Remember to state a position on all requests that may be assessed by the appeals body. Usually, the University's position will be that the appeal should be rejected, which is the most common option, but the University may also hold the position that the appeal should be dismissed or that the matter should be closed. See examples 1–4 below. There may be occasions when it is necessary to have a primary and a secondary position, for example if the University primarily believes that the appeal should be dismissed but is uncertain whether the appeals body will agree to that – see example 5.

Example 1 (complete rejection): Umeå University believes that the appeal should be rejected.

Example 2 (partial amendment): Umeå University considers that the appeal should be rejected in that part that has not been amended by the University.

Example 3 (dismissal, e.g., because there is no decision that can be appealed): Umeå University believes that the appeal should be dismissed.

Example 4 (closed, e.g., because the student has withdrawn the appeal): Umeå University believes that the appeal should be closed.

Example 5 (primary and secondary positions): Umeå University believes that the appeal should primarily be dismissed. Secondarily, the University believes that the appeal should be rejected.



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Please note that even if the University has changed the decision in its entirety after reassessment, it must still be submitted to the appeals body. In these cases, the wording stated in Example 1 above should be used.

Assessment

An assessment in a statement of opinion corresponds to the grounds for a decision. This is the most important part of a statement of opinion. The assessment must state how the University has assessed the circumstances of the case in relation to the rules and practices applicable to the situation in question. Arguments or grounds that are relevant and that have not previously been addressed should be addressed in the statement.

If necessary, a statement of opinion may also contain the following information:

- Regulations (section of the act, the University's own rules, etc.)
- Background
- Information or notifications

Regulations

Regulations do not always have to be specified, but it is usually a good idea to include them. Doing so can also be a way for administrative officers to check that their opinion is supported by the regulations and that they have reasoned correctly. It is also appropriate to include regulations in unusual cases or to the extent necessary to understand the statement.

When including regulations in a statement of opinion, put references to legislation first, then references to ordinance provisions and finally references to provisions and general advice.

Under this heading, references can also include any preparatory work, precedence or legal position relevant to the case. If you reference more than just regulations, write 'Regulations etc.'.

Background

It is often appropriate to include a brief background section in the statement of opinion explaining what has happened in the case, what documents have been submitted and what the appellant has stated in the appeal. Background sections should be written in chronological order.

Information or notifications

If appropriate, a statement of opinion may also include information or notifications. In such cases, they should be written last under their own heading 'Information' or 'Notification'. For example, this may be required if the appellant applies for something else at the same time as the appeal or requests an answer to a question. In such cases, the University should inform the appeals body that it is processing the matter or has answered the question.



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8.4 Request for a statement of opinion by an appeals body

At times, an appeals body may request a statement of opinion from the University. This type of request may be made for a variety of reasons, such as:

- When the University has submitted the case to the appeals body without including a statement of opinion.
- When the University has already made a statement, but the appeals body requires further clarification.

If the appeals body requests or compels the University to submit a statement of opinion, the University *has an obligation* to provide a response. If, however, the University receives a document from an appeals body ‘for information purposes’ or if the appeals body ‘allows the University the opportunity to make a statement’, the University does not need to submit a statement of opinion if it does not consider it necessary.

If the request/order for a statement of opinion specifies a specific question, the University must answer that question. But if the University would also like to state an opinion about something else, it may do so.

The Higher Education Appeals Board (ÖNH) also provides further information on its website, www.onh.se



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9 Withdrawal of an appeal

9.1 General information about withdrawals

If a party has sent an appeal to the University but then regrets their action, they may withdraw the appeal before the appeals body has handed down its decision.

9.2 How does withdrawal occur?

There are no rules on how to proceed on withdrawal of an appeal. However, it is commonly held that a withdrawal should be in writing to clarify that the party wishes to withdraw its appeal. A withdrawal is considered in writing if it is received by post, e-mail or fax.

If someone phones or visits the University, the University may receive an oral withdrawal that the University writes down in an official note. If an appellant expresses the desire to withdraw their appeal in a phone call to a member of university staff, it is important to make a detailed official note of what the appellant says. If the relevant file has not yet been sent to the appeals body, the note is to be attached to the file. Remember to place the official note at the beginning of the document or clearly mark it in the email so that the appeals body finds it immediately when they start to process the case.

If the case has already been sent to the appeals body, the official note is to be sent separately. If this occurs, the appeals body must be made aware of the withdrawal as soon as possible, so that it does not decide the case or to begin processing the case unnecessarily. If it is deemed to be urgent, the appellant can be asked to call the appeals body directly and to notify the appeals body that the appeal has been withdrawn.

It is not necessary to attach a separate statement of opinion when sending the official note to the appeals body.

9.3 When can withdrawal occur?

A party may withdraw its appeal up until a final decision on the matter has been handed down by the appeals body. However, even if a withdrawal has arrived late, it must be forwarded to the appeals body for administration.

9.4 The appeals body considers the withdrawal

When the appeals body receives the withdrawal, it must decide whether the case should be closed as a result of the withdrawal. So, it is not the University that considers the validity of the withdrawal. This applies even if the University has not had time to submit the appeal to the appeals body. In that case, the appeal and the withdrawal are submitted to the appeals body at the same time.

The rule that the University should always send a withdrawal to the appeals body does not apply if the University has dismissed an appeal because it has arrived too late. In that case, neither the appeal nor the withdrawal will be forwarded to the appeals body.



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In all other cases, an appeal and any received withdrawal must always be forwarded to the appeals body and without undue delay. This also applies when the University has reassessed the decision and has amended it in whole or in part in accordance with the party's request and the party states that it is satisfied with the reassessment decision.

9.5 What happens if an appellant regrets a withdrawal?

A party may rescind its withdrawal if the appeals body has not closed the case.

If the rescinding of the withdrawal occurred before the case was closed, the appeal will be processed as if it had never been withdrawn. This applies regardless of whether the appeal period has expired or not. This means that the appeal must be decided in substance by the appeals body.

If, however, the rescinding of the withdrawal occurs after the case has been closed, the appeals body will normally not be able to process the appeal. The party may, however, submit a new appeal, provided that the regular appeal period has not expired.

If the appeals body has closed the case and the appeal period has expired, the party will not be able to appeal the decision once more. A new appeal will therefore not be considered by the appeals body.



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10 Remand of an appeal

10.1 General information about remands

When an administrative decision is appealed, the appeals body normally takes a decision to approve or reject the appeal. However, sometimes the appeals body thinks that the decision-making authority should instead make a new decision in the case. The case or task may then be remanded back to the authority.

The appeals body's decision to remand a case back is a final decision. This means that the appeals body has considered the appeal and has concluded its part in the case by remanding the case back to the decision-making authority. Normally, a decision to remand a case cannot be appealed.

Sometimes, the appeals body sets aside or vacates the appealed decision when it decides to remand the case back to the decision-making authority. This is of no practical significance, as the decision-making authority must always make a new decision after a case has been remanded back to it. In some cases, the matter will need further investigation before a decision can be taken.

Priority is to be given to cases remanded back to the original decision-making authority. This means that the University must resume its process as soon as possible and at the latest within one week of receiving the decision to remand the case. A decision must be taken as soon as possible after the case has been reviewed. If the appeals body has taken a position on an issue of fact in its decision to remand the case back, the University is generally obliged to comply with the decision. Exceptions may apply if, for example, new circumstances have arisen after the decision.

The new decision taken by the University on the grounds of remand can be appealed in the usual way and thereby be considered by the appeals body.

10.2 Why would a case be remanded back?

There are various reasons for an appeals body to remand a matter back to the decision-making authority. The reason is to be stated in the grounds for the decision. All the circumstances that may lead to a remand share the principle that an individual must be given an opportunity to have their case considered in its full breadth by more than one body.

Further consideration is needed

A decision to remand a case back may be taken if further investigation is needed in the case and it is appropriate that the lower body conducts that investigation.

Shortcomings in the decision

Remanding a case back may also occur if the appeals body considers that the shortcomings in the arguments of the contested decision are so great that the decision-making authority



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should make a new decision. The authority may have failed to justify the decision in such a way that it is impossible to understand what the authority has considered or on what grounds the decision is based.

Incorrect dismissal

Another situation in which remand may be considered is when the dismissal has taken place for formal reasons, but the appeals body believes that a substantive examination should be performed. If the decision-making authority has dismissed an application because it is not formally correct, the authority has not examined the substance of the application. If the appeals body considers that a consideration of the substance of the examination can be done, it may remand the matter back to the authority, which will then consider whether the application can be approved.

Shortcomings in communication

If a decision-making authority fails to comply with the rules on communication as defined in the Administrative Procedure Act, the decision in the matter has not been made according to legal requirements. After an appeal, circumstances may result in reason for the appeals body to repeal the decision and remand the case back to the decision-making authority for further consideration.

New claims in the appeals body

If the appellant brings new claims to the appeals body, the claims are submitted to the decision-making authority to see whether it can consider them. Such a submission is also a type of remand.

New information to the appeals body

If new information or documents have been received by the appeals body after the University has submitted the case, the appeals body may remand the matter back to the University because it judges that the University should assess the new information as the first instance.



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11 Registration

The appeal, and other documents relating to the appeal, must be registered. If registration has not already been done, the administrative officer is to always send the appeal and related documents in the matter to the registrar for registration. Once registered, an administrative officer is appointed for the case. Registration also ensures that all documentation is received by the appropriate administrative officer.

12 Citations

Govt. bill 1985/86:80 on the new Administrative Procedure Act

Govt. bill 2016/17:180 Modern and legally secure administration – a new Administrative Procedure Act

Hellners/Malmqvist, the Administrative Procedure Act with comments, 3rd edition, 2010

UKÄ 2018: Higher education institutions' procedure for appeals



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Annex 1 – Examples of appeal instructions

The person who has been informed of an appealable decision is to receive the information shown in the following three examples together with the written decision, depending on the body to which the appeal is to be made:

Appeal to the Administrative Court

How to appeal

If you wish to appeal this decision, you can write to the Administrative Court in Umeå. However, the appeal must be addressed and sent to: Umeå University, Registrar, SE-901 87 Umeå, or to registrator@umu.se, and must have been received by the University within three weeks of the date on which you were made aware of the decision.

The appeal must contain the following

- the decision you want to have changed
- the date of the decision
- what changes you are requesting
- your name
- your personal identity number
- your address
- your phone number.

What will happen with the appeal?

When we receive your appeal, we will first check whether it has arrived in time. We will only consider appeals that are submitted in time. We will then consider whether we can change the decision in line with your request. Your case will be forwarded to the Administrative Court regardless of whether the decision has been changed.

When the Administrative Court has considered your appeal, they will send you a decision.

To the Higher Education Appeals Board

How to appeal

If you wish to appeal this decision, you can write to the Higher Education Appeals Board (ÖNH). However, the appeal must be addressed and sent to: Umeå University, Registrar, SE-901 87 Umeå, or to registrator@umu.se, and must have been received by the University within three weeks of the date on which you were made aware of the decision.



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The appeal must contain the following

- the decision you want to have changed
- the date of the decision
- what changes you are requesting
- your name
- your personal identity number
- your address
- your phone number.

What will happen with the appeal?

When we receive your appeal, we will first check whether it has arrived in time. We will only consider appeals that are submitted in time. We will then consider whether we can change the decision in line with your request. Your case will be forwarded to the Higher Education Appeals Board regardless of whether the decision has been changed.

When the Board has considered your appeal, they will send you a decision.



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Annex 2 – Examples of dismissal decisions

Decision

Umeå University has dismissed your appeal.

Regulations

Pursuant to Section 44 of the Administrative Procedure Act (2017:900), an appeal must have been lodged with the authority that has notified the decision within three weeks of the date on which the appellant received the decision.

Background

Umeå University decided on **DATE1** that you did not meet the requirements for admission to first-cycle education. You have stated in your appeal that you were made aware of the decision on **DATE2**. You then appealed the decision on **DATE3**.

Assessment

Your appeal of the decision was received by Umeå University on “**DATE3**”. This is more than three weeks after the date **DATE2** on which you were made aware of the decision.

How to appeal

If you wish to appeal this decision, you can write to the Higher Education Appeals Board (ÖNH). However, the appeal must be addressed and sent to: Umeå University, Registrar, SE-901 87 Umeå, or to registrator@umu.se, and must have been received here within three weeks of the date on which you were made aware of the decision.

The appeal must contain the following

- the decision you want to have changed
- the date of the decision
- what changes you are requesting
- your name
- your personal identity number
- your address
- your phone number.



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Proposal of notification of the dismissal decision in English

On 12 December 2018, Umeå University made a decision regarding the appointment of an Assistant Professor in Technical Chemistry. Umeå University made the decision official on 13 December 2018. In your appeal, you stated that you were made aware of the decision on 13 December 2018.

You appealed the decision, which was received at the registry of Umeå University on 4 January 2019. That is more than three weeks after 13 December 2018, when you were made aware of the decision. Your appeal was not received in time and will therefore be dismissed. The official decision is attached to this email.

If you want to appeal this decision, you can find more information here:

<https://www.umu.se/en/work-with-us/appeals/>



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Annex 3 – Which decisions can be appealed to the ÖNH?

The following decisions can be appealed to the Higher Education Appeals Board (ÖNH) in accordance with Chapter 12, Section 2 of the Higher Education Ordinance (1993:100):

1. a decision relating to employment at a higher education institution, with exception of appointment to a doctoral studentship or as an associate professor through promotion as provided for in Chapter 4, Section 12 c of the Higher Education Ordinance,
2. decisions pursuant to Chapter 4, Section 13 to reject an application for promotion,
3. a decision that an applicant does not meet the general entry requirements for admission to first- or second-cycle higher education courses and study programmes and a decision not to grant an exemption from the general entry requirements for admission in cases laid down in the second sentence of Section 3 or the second paragraph of Section 28 of Chapter 7 of the Higher Education Ordinance,
4. a decision on the transfer of credits for courses and study programmes or professional or vocational activities,
5. rejection of a student's application for exemption from a compulsory element of a course or study programme,
6. a decision to withdraw study resources from a doctoral student pursuant to Chapter 6, Section 30 of the Higher Education Ordinance and a decision that a student is not to recover these resources pursuant to Chapter 6, Section 31 of the same ordinance,
7. rejection of a student's request to be issued with a degree certificate or a course certificate, and
8. a decision not to allow those admitted to first- or second-cycle courses and study programmes to defer commencement of their studies or to continue their studies after an approved period of leave.

Other decisions that can be appealed to the ÖNH

- A decision of a university or other higher education institution for which the State is the responsible entity on the grounds that the decision is contrary to the prohibition of discrimination or the prohibition of retaliation under the Discrimination Act (2008:576).



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- Decision to demand recovery of doctoral grants for doctoral students in accordance with the Swedish Ordinance (1995:938) on grants for doctoral students.
- Decision by a university or other higher education institution to grant a student association status as a student union or if a student union is to have such status withdrawn under the Ordinance of Student Unions (2009:769).
- Decision to suspend a student who has not paid their tuition fee according to the Ordinance (2010:543) on application fees and tuition fees at higher education institutions.
- Decision on doctoral grant pursuant to the Ordinance (2016:706) on supplementary educational programmes leading to a degree of Master of Arts/Science in Secondary Education for persons with a doctoral degree.
- Some decisions under Section 12 of the Administrative Procedure Act (2017:900) to reject a request for the higher education institution to decide a matter.

With regard to *Higher Vocational Education*, the following decisions may be appealed to ÖNH pursuant to the Ordinance (2009:130) on Higher Vocational Education:

- Decisions by the responsible education provider to dismiss a student's request to obtain a degree certificate or course certificate.
- Decisions by a public-sector university or higher education institution on eligibility for the course or programme, decisions on transferring credits and decisions on deferment or leave of absence.

In addition, the following decisions may be appealed to the ÖNH under the Ordinance (2011:689) concerning certain professional status qualifications for schoolteachers and pre-school teachers and for higher education programmes for continuing professional development of schoolteachers and pre-school teachers without a teacher or a pre-school teaching degree:

- Decisions that an applicant does not meet the general entry requirements for admission to programmes provided for in this ordinance.
- Decisions not to grant an exemption from the general entry requirements for admission in cases laid down in the second sentence of Chapter 7, Section 3 of the Higher Education Ordinance.
- Decisions on transfer of credits for programmes or activities pursuant to Chapter 6, Section 8 of the Higher Education Ordinance.



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- Decisions to reject a student's request for exemption from a compulsory element of a course.
- Decision to reject a request concerning a degree certificate or course certificate.



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Annex 4 – Which documents must be sent with the appeal to ÖNH?

Admission cases

1. The application documents (including the documents in the admission system, NyA, which formed the grounds for the decision)
2. Any statements of opinion being prepared on the application by the departments, course directors, etc.
3. The admission decision
4. The appeal with any attachments

Employment cases

1. The decision of the higher education institution regarding the appointment profile and the job announcement
2. Application documents for the employee and the appellant(s). Scholarly work does not need to be attached. These can be submitted if necessary.
3. Any expert opinions, statements of opinion from recruitment teams, etc.
4. Any statements of opinion about the applicants from the teacher appointment committee, faculty board, etc.
5. The employment decision
6. The appeal with any attachments

Other cases

1. The application documents
2. Any statements of opinion being prepared on the application by the departments, course directors, etc.
3. The appealed decision
4. The appeal with any attachments

Further information is available on ÖNH's website about appeals for which ÖNH is the appeals body. Please note that the ÖNH primarily requests that appeals including accompanying documents be sent via email.

<https://www.onh.se/information-till-hogskolorna>.