

Academic appeals

Circulaire

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General information

1 Scope of the procedure

This procedure applies to the contestation of academic administrative decisions/acts regarding an individual student in the context of the fulfilment of the University's educational mission as defined in the law of 27 June 2018 (amended) on the organisation of the University of Luxembourg (hereinafter "the Law"), by a member or body of the University of Luxembourg (hereinafter "the University") or a person acting on behalf of the University.

The right to appeal against academic decisions is defined in the Law (s. below 'Regulatory context'). This internal procedure elaborates the practical steps involved in the appeal process.

The procedure covers all decisions or acts concerning students taken on the basis of the provisions of articles 32 to 37 and article 39 of the Law, the Study Regulations of 5 May 2020 (amended) (hereinafter "Study Regulations") and any official policy or procedure of the University based on these provisions and regulations as well as decisions interfering with or affecting the rights and obligations of students in the contexts of these provisions and regulations.

It defines the steps to be followed:

- by a student or applicant to a study programme of the University in order to contest (appeal against) such decisions or acts insofar as they concern the student or applicant (hereinafter the "appellant");
- by the members or bodies of the University or persons acting on behalf of the University having taken or contributed to the contested decision or being implicated in the appeal process based on their formal responsibilities and competences (hereinafter the "respondent").

The procedure concerns:

- Users of the University in the sense of article 1, points 11° and 12°, of the Law
- Former students (users) of the University
- Applicants to a study programme of the University
- Persons teaching at the University (members of the academic staff and external teaching staff¹ and any other person assuming teaching duties at the University)
- Study Programme Directors
- Boards of Examiners
- Study Programme Administrators (SPA)
- The Student Department (SEVE) and the central administration more generally
- Faculties and Interdisciplinary Centres
- The University of Luxembourg Competence Centre
- Members of the Rectorate
- The Dispute Committee (*Commission des litiges*)

¹ 'Corps professoral', 'assistants-chercheurs' or 'enseignants-chercheurs associés' in the sense of the Law.

2 Regulatory context

The Law foresees the contestation of decisions regarding students in two contexts.

Article 47 of the Law concerns appeals in the context of disciplinary action taken against students. These appeals are not subject of this procedure.

Articles 46 and 48 define the procedure for appealing against a decision taken on the basis of provisions of articles 32 to 37 and article 39 of the Law. These provisions define the scope for the present procedure.

Art. 46 Commission des Litiges

Il est institué auprès du conseil universitaire une commission des litiges ayant les attributions suivantes :

[...]

2° statuer sur les réclamations contre les décisions prises sur base des dispositions prévues aux articles 32 à 37 ainsi qu'à l'article 39.

Art. 48. Voies de recours

Avant de pouvoir introduire un recours en annulation contre les décisions prises sur base des dispositions prévues aux articles 32 à 37 ainsi qu'à l'article 39, celles-ci doivent être attaquées dans un délai d'un mois après leur notification par voie de réclamation devant la commission des litiges. Lorsque la réclamation a été introduite et qu'aucune décision définitive n'est intervenue dans le délai d'un mois à partir du dépôt de la demande, le réclamant peut considérer sa réclamation comme rejetée. Il peut introduire un recours en annulation devant le tribunal administratif contre une décision de refus endéans un délai d'un mois.

The provisions of articles 32 to 37 and 39 cover decisions taken in the context of:

- The access to a study programme offered by the University at bachelor or master level and the assessment of the eligibility of diploma held by applicants in view of such access (article 32 of the Law).
- The recognition of prior experience ('*validation des acquis de l'expérience*', article 33 of the Law).
- The selection of applicants for admission to a study programme, the offer of admission, and conditional admissions (article 34 of the Law).
- The assessment of students and the attribution of grades (article 36 of the Law).
- The progression, exclusion, re-enrolment and graduation of students with respect to a given study programme (article 36 of the Law).
- Leaves of absence ('*suspensions d'études*', article 36 of the Law).
- Doctoral education (article 37 of the Law).
- Reasonable accommodation ('*aménagement raisonnables*', article 39 of the Law).

3 Policy Statement

The purpose of this procedure is to create the conditions for students of the University of Luxembourg to exercise their right to contest academic decisions taken with regard to their studies.

With this procedure, the University commits to treating appeals in a fair, reasonable and effective manner that is respectful of the student, and strictly adhering to the University's academic rules and regulations throughout the process.

The University also commits to preventing any disadvantage, discrimination or recrimination as a result of an appeal made in good faith. All appeals will be treated confidentially, and information related to the appeal will only be shared as far as that is necessary to process the appeal and prevent disadvantages as referred to above.

Procedure for academic appeals

1 What is an academic appeal

An academic appeal is a request for review or a contestation of a decision taken by a member of the academic staff or an academic or administrative body of the University on study-related matters (within the scope of articles 32 to 37 and article 39 of the Law) that materially affects the appellant.

What it is not:

- An appeal against a disciplinary action or sanction (s. article 47 of the Law).
- A complaint regarding, e.g., the quality of teaching or of academic services. Such complaints should be directed to the member of staff or the service concerned, the respective Study Programme Director, the University's education quality management or the University's Ombudsman.
- A contestation of the academic judgement of the University's teaching staff. Please see section 6, 'Student assessment and attribution of grades' below regarding the conditions under which appeals against academic results can be received.

Students who believe to be subject to harassment, discrimination or other misconduct by a member of staff should contact the Student Services or the University's Ombudsman. If an infraction is confirmed and has impacted on the student's ability to comply with academic rules, an appeal against a respective decision can be made.

2 Who can appeal

All students or users, in the sense of '*usager*' of article 1 of the Law, have the right to appeal insofar as they are personally affected by the decision against which they are appealing. This includes students on incoming mobility, former students and applicants to a study programme of the University. This right derives from article 48 of the Law.

The University does not treat appeals against decisions taken under the jurisdiction of another institution of higher education, e.g., affecting students of the University on mobility abroad.

The right to appeal is, by law, not subject to any specific conditions. The University does generally not consider appeals that are not motivated by a clearly-defined academic/procedural issue (see the list of admissible issues below). It does not accept appeals that are phrased in a way that is insulting, offensive or violating the dignity of a person. To be considered admissible:

- The appeal is submitted in written and states the full name, study programme, and student ID of the appellant. It must also refer to the decision against which the appellant appeals, including the date of receipt, its author (as far as known to the appellant), form of notification and content.
- The appeal outlines the reasons for or grounds on which the decision is contested, including suitable evidence. Admissible reasons include, but are not limited to, the violation of applicable procedures, the manifest neglect of evidence on the part of the decision-maker, or a violation of relevant legal principles applicable to the decision process (e.g. equal treatment, confidentiality).
Independent of their nature, the submitted reasons must be suitable to have influenced the decision.

3 Which decisions can be subject to an academic appeal

Article 48 of the Law defines that decisions taken on the basis of provisions of articles 32 to 37 and article 39 of the Law can be subject to an appeal. The same applies by implication to decisions based on provisions of implementing regulations such as the Study Regulations and internal policies and procedures that specify the former. The most important types of decisions are listed below.

Access to study programmes

Legal basis: Article 32 of the Law

Concerns:

- Eligibility and authenticity of the diploma held by a candidate for a bachelor or master programme, for doctoral education or for specialised medical studies, and the specification of conditions for admission as far as they concern such diploma.
- Completeness of documents submitted in an application for admission to the University (or other application process).
- Observation of applicable deadlines.
- Information provided to candidates regarding the above.

Responsibility for process: SEVE

Decision-making competence: VRA in delegation of the Rector

Recognition of prior experience ('validation des acquis de l'expérience')

Legal basis: Article 33 of the Law

Concerns:

- Requests for recognition of prior educational and/or professional experience in view of granting a candidate without an eligible diploma access to a bachelor or master programme.
- Recognition of prior educational and/or professional experience in view of granting a candidate to, or a student enrolled in, a bachelor or master programme or specialised medical studies transfer credit and/or waivers for specific study requirements.

Responsibility for process: SEVE (recognition of prior experience for access to studies: information of candidates, assessment of diploma and internal notification of eligibility status, registration of decision concerning access); Study Programme Administrators (recognition of prior experience for transfer credit and waivers: receipt of request and communication with requester); Programme Directors (preliminary assessment of request); Boards of Examiners (assessment and decision on requests for recognition of prior experience in view of transfer credit/waivers concerning less than 60 ECTS credits); VAE committees (assessment and decision on requests for recognition of prior experience in view of access and in view of transfer credit/waivers concerning 60 ECTS credits or more).

Decision-making competence: Board of Examiners (<60 ECTS credits); VAE committees (access and 60+ ECTS credits)

Admission to a study programme

Legal basis: Article 34 of the Law

Concerns:

- Fulfilment of the prerequisites for admission to a bachelor or master programme or to specialised medical studies: language skills, specific diploma requirements, professional experience.
- Selection for admission to a bachelor or master programme or to specialised medical studies: assessment of application file, performance at an interview or admission test.

Responsibility for process: SEVE (reception and transmission of application file); Study Programme Director, possibly with the assistance of the programme admission/selection committee (assessment of application and selection decision).

Decision-making competence: Study Programme Director or programme admission/selection committee.

Student assessment and attribution of grades

Legal basis: Article 36 of the Law

Concerns:

- Publication of assessment modalities, examination process.
- Marking and attribution of grades.
- Plagiarism and fraud. Appeals against disciplinary measures are not subject to this procedure. Please consult the University's procedure for plagiarism and fraud.

Responsibility for process: Course coordinator (definition and publication of assessment modalities, examination process, organisation of marking), course instructor (examination process, marking, consultation of exam documents), Board of Examiners (confirmation of grades). For details, see Assessment procedure.

Decision-making competence: Course coordinator (exam modalities), course instructor/examiner (marking), Board of Examiners (confirmation of grades).

Before appealing against a grade, the student should have made use of the possibility to inspect the exam and discussed the grade with the person who has marked the exam. The student has the right to receive an explanation of the grade from the marker(s) either orally or in writing. Students should try as far as possible to make use of this right before appealing. Appeals against grades cannot be based solely on a contestation of the academic judgement of the marker.

In the case of an appeal against a grade, the responsible Board of Examiners can decide to pass the affected exam to an evaluation by a second reviewer who is an expert in the field, familiar with the content of the exam and the assessment rules, and thus considered competent to assess the exam. The Dispute Committee can demand such a second assessment.

Progression, exclusion, re-enrolment and graduation

Legal basis: Article 36 of the Law

Concerns:

- Authorisation to re-enrol for a consecutive semester/exclusion from studies.
- Placement in a given study year (semester) upon re-enrolment.
- Definition of mandatory individual study plans.
- Maximum study duration.
- Graduation.

Responsibility for process: Boards of Examiners (decision making), course instructors (registration of grades), Study Programme Administrators (preparation of information)

Decision-making competence: Boards of Examiners

Leaves of absence ('*suspensions d'études*')

Legal basis: Article 36 of the Law

Concerns:

- Leaves of absence for legally authorised reasons.

Responsibility for process: Study Programme Directors (decision making), Study Programme Administrators (treatment of requests)

Decision-making competence: Study Programme Directors (standard reasons), Rector (exceptional reasons)

Reasonable accommodation ('*aménagements raisonnables*')

Legal basis: Article 39 of the Law

Concerns:

- Exemptions for academic rules and other measures granted to students with special needs.

Responsibility for process: Inclusion Officer (information, treatment of requests), Inclusion Committee (decision making)

Decision-making competence: Inclusion Committee

4 Confidentiality

All appeals are treated confidentially. The University will involve only those persons in an appeal process who are directly affected by the appeal or have participated in the decision concerned by the appeal.

5 Suspensory effect

An appeal process does not suspend the course of academic activities, nor does it relieve students of their duties as required by the study programme in which they are enrolled. An appeal process may not be cited as a valid excuse for the failure to meet obligations or respect deadlines.

The competent respondent can, however, decide to suspend application of certain rules or deadlines, if failure to do so would unreasonably harm the requester or effectively prevent redress in case the appeal is successful.

6 Academic appeal procedure

Stage 1: Non-contentious appeal ('*recours gracieux*')

Whenever possible, appeals are resolved locally. Students who disagree with a decision that adversely affects them have the option of filing a non-contentious appeal (*recours gracieux*). A non-contentious appeal is an informal administrative appeal directed to the authority/member of staff that took the decision. Such an appeal has the purpose of motivating the decision-maker to reconsider the decision based on additional information or based on a claim for procedural error or other irregularity. The University accepts non-contentious appeals under the following conditions:

- The appellant addresses the non-contentious appeal by registered letter or by using an interface of the University's student management systems foreseen for this purpose in one of the three languages of the University (French, German or English) to the body/member of staff that has taken the contested decision. The appeal must contain the appellant's full name, study programme, and student ID. It must also refer to the decision against which the appellant appeals.

- The appeal is motivated and contains either new information not available to the decision-maker at the time of the decision that is suitable to influence the decision and/or evidence that the decision was subject to a procedural irregularity or error on the part of the decision-maker.

Students who wish to file a non-contentious appeal should do so as soon as possible after receipt of the decision. If the non-contentious appeal is admitted, it extends the deadline for filing a formal appeal before the University's Dispute Committee (s. Stage 2 below). If the non-contentious appeal is rejected on procedural grounds, no such extension applies.

The authority that receives the appeal confirms receipt and informs the student whether it admits the appeal (by email or registered letter to the student). In case the appeal is admitted, the appellant is also informed of the delay within which a decision is taken, usually four (4) weeks of receipt of the appeal. If the appellant does not receive a response within this delay, he must consider the appeal rejected and can introduce a formal appeal before the Dispute Committee (s. Stage 2 below).

Stage 2: Appealing before the University's Dispute Committee

In case a non-contentious appeal is rejected or not admissible, or the student decides not to pursue it, students have the right to appeal before the University's Dispute Committee. On the basis of articles 46 and 48 of the Law, the Dispute Committee decides disputes regarding academic matters between, on the one hand, the users of the University (i.e. current students, former students and/or potential students of the University) and, on the other hand, the decision-making bodies of the University.

The appeal must be submitted by email (preferably from the student's university email account) in one of the administrative languages of the country (French, German, Luxembourgish) to commission.litiges@uni.lu.

The appeal must respect the applicable delays defined in article 48 of the Law. Appeals submitted after the applicable delay are not admissible, with the exception of cases of *force majeure* or other exceptional circumstances. The delay for academic appeals is one (1) month after notification of the decision; or one (1) month after notification of the rejection of a non-contentious appeal against the original decision.

The secretary of the Dispute Committee confirms receipt of the appeal by email. The Committee checks whether the appeal is complete. It asks for additional documentation if necessary, including the delay within which this documentation must be submitted. It also informs the appellant of the further process.

An appeal must include the following information:

1. Personal and contact details of the appellant.
2. Information on the decision that is appealed: date, form of notification, author, study programme, nature and content of the decision.
3. Information on the reasons for/grounds on which the decision is contested, including suitable evidence.

The Dispute Committee first examines the admissibility of the appeal. If the appeal is admissible, the Committee examines whether or not the contested decision complies with all the applicable rules of the University.

The litigation procedure is adversarial. The appeal is transmitted to the respondent, i.e. the body/person having taken the contested decision. The Committee can ask the respondent to react with a written statement, which it transmits to the appellant.

The Dispute Committee can invite the two parties to a hearing. At this hearing, each of the two parties may be accompanied by a person of their choice. In particular, each party may be assisted by a legal adviser (e.g., a lawyer), who may intervene in the discussion.

After the hearing, the Dispute Committee deliberates in private. The members of the Committee decide in accordance with the Law, in complete independence. The decision of the Dispute Committee must receive at least three affirmative votes from the members present (article 46, paragraph 3, of the Law).

The Dispute Committee either confirms the decision (and rejects the appeal) or it grants the appeal and, in that case, it can either amend the decision (it replaces the contested decision with its own decision) or it annuls the decision (the decision is annulled; the author of the contested decision must take a new decision).

The decision, duly reasoned, is sent by e-mail to the appellant and the respondent. If the appellant does not receive a response within one month of submission of the appeal, he must consider the appeal rejected and can introduce an appeal for annulment before the Luxembourg Administrative Court (s. below).

7 External judicial review

The decision by the Dispute Committee can be contested by an appeal for annulment (*recours en annulation*) before the Administrative Tribunal (*tribunal administratif*) within a period of one month from its notification (article 48 of the Law). The Dispute Committee informs the appellant of this possibility in its communication of the decision. Appeals before the Administrative Tribunal are contentious and require the representation by a lawyer.