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INFORMATION NOTICE

Right of appeal and means of legal redress regarding grades and other performance evaluations

1. Communicating grades and other performance evaluations

ETH students are informed as follows about their grades and performance evaluations:

- a) **First-year exam** results are communicated formally in writing in the form of a decree. The individual grades listed are final and the ruling “It is decreed: ...” clearly specifies whether or not the first-year examinations have been passed. Appeals can be made against decrees as indicated below.
- b) Grades and performance evaluations for **other performance assessments (examinations, examination blocks, etc)** are communicated as follows: The Study Administration Offices inform the students by email about which grades and performance evaluations are currently accessible in the myStudies web application. The results are listed in the transcript of records. It is important to note that, in contrast to the written decree, grades listed in myStudies are not binding and, consequently, it is not possible to make an appeal against any grades listed electronically. To lodge an appeal against grades and other performance evaluations, students must react within 30 days after having received the email from the Study Administration Office. The first step is to ask this office to issue a decree that can be used for an appeal (an appealable decree). No charges are incurred for this document.
- c) Students, who successfully passed their first-year exams but **fail at a later stage of their studies**, also receive a decree, i.e., a record of all grades earned and performance evaluations without completing the programme.¹

If students do not agree with the grades and performance evaluations issued in the decree, they can proceed by either lodging an appeal (see Point 2) or seeking legal redress (see Point 3).

2. Lodging an appeal to the ETH Appeals Commission

All decrees include instructions on the right of appeal, i.e., how to proceed when lodging an appeal. It must be lodged to the ETH Appeals Commission (ETH-Beschwerdekommision) in Bern within 30 days of receipt of the decree. The Appeals Commission is obliged to take a decision which can, if necessary, be taken further to the federal administrative court.

¹ Such a decree is also issued if students exceed a deadline and are thus excluded from their programme. The options described in points 2 and 3 of this notice also apply in such a case.

An appeal can contest any breaches in conformity, e.g., organisational aspects of an exam that do not conform with the regulations, incorrect calculation of the grade point average, not taking into consideration the problems solved in a written exam, unequal treatment of the exam candidates.

Reasons most frequently brought forward for lodging an appeal are:

- Mostly objections are raised against the performance evaluation, i.e., grades in each examination subject are questioned and awarding a higher grade is requested. At this stage, it is important to note that only when the ETH Appeals Commission can prove that a grade has been unjustly given, the Commission returns the case to ETH for reassessment. Lodging an appeal without clearly indicating the reasons is futile, since, legally, the ETH Appeals Commission cannot encroach upon the examiners' leeway to grade exams. If, for instance, no point is given for a half correct answer to an exam question, the Appeals Commission does not argue that a point (or half a point) should have been given. Neither does the Commission seek the expert opinion of an independent third party. Ultimately, awarding points lies solely within the competence of the examiners. Furthermore, it should be noted that, as a rule, students cannot make an appeal against a satisfactory grade unless the grade is connected with certain legal consequences, such as the possibility of taking additional courses, attending continuing education courses or obtaining special qualifications, or if the grade counts as performance grade for other examinations.
- Occasionally, students also justify appeals with claims that they were physically or mentally impaired during the examination(s) and, although, in this case, it is not a grade which is being contested, a request is made for individual examinations, an entire examination block, or other performance assessments to be revoked. This aspect is considered in greater detail in Point 3b (Cancellation request).

Please note that the ETH Appeals Commission only processes appeals once an advance payment of approximately CHF 500.- has been made. If the appeal is rejected, the person lodging the complaint must cover the costs of the proceedings. The costs normally amount to the figure of the advance payment.

3. Means of legal redress: reconsideration and cancellation requests

As indicated above, the right of appeal involves the case being submitted to a higher body to make a decision. In contrast, legal redress is a request directed to the ETH office issuing the decree asking for the decree to be rechecked, changed or revoked. ETH distinguishes between two types of legal redress: reconsideration and cancellation requests.

Important Instructions

- The Rectorate only accepts reconsideration and cancellation requests that, in fact, refer to a decree (first-year exams' decree, an appealable decree, or a record of all grades earned and performance evaluations without completing the programme). Requests to change or cancel grades and performance evaluations listed in or printed out from a transcript of records accessed electronically are not accepted. It is essential to request an appealable decree (see Point 1b above). This is not necessary, if the exam candidate is already in possession of the decree stating his/her results, i.e., first-year

exams and a record of all grades earned and performance evaluations without completing the programme (see Points 1a and 1c above).

- A reconsideration request or a cancellation request must be submitted to the Prorector for Education within 30 days of receipt of the decree.
- Submitting a reconsideration request or a cancellation request does not affect the deadline for lodging an appeal. As indicated in Point 2, an appeal can be lodged to the ETH Appeals Commission within 30 days of receipt of the decree. This deadline is legally defined and cannot be extended. In this respect, there is the danger that this deadline passes before ETH has made a decision on any submitted reconsideration or cancellation requests. To counteract this problem, it is possible to submit a 'precautionary appeal' to the ETH Appeals Commission in which case it is essential to contact the Rectorate to clarify the procedures.

3a) Reconsideration request

This is used by a student to request the office issuing the decree to withdraw the unfavourable decree and to replace it with a more favourable one. This usually involves a well-founded request for reconsideration of the examination taken in order to be awarded a higher grade. Changing grades retrospectively lies solely within the competence of the examiners or rather of the Grading Conference, respectively. If both the examiners and the Grading Conference plausibly reason their former evaluation, i.e., the grades initially awarded, the reconsideration request is rejected.

3b) Cancellation request

Cancelling means declaring a performance assessment already carried out as not having taken place. Cancellations are mostly requested when a performance assessment has been failed twice which implies that a performance assessment would then be attempted for the third time. Such practice would come into conflict with the basic principle of repeating a performance assessment only once. Subsequently, stringent demands are placed on the prerequisites for a cancellation to ensure that this basic principle is not undermined and that all exam candidates are treated equally.

Mostly, candidates submit a cancellation request due to impaired performance for health reasons. In principle, it is not possible to make a cancellation request when, despite ill health, the student proceeds with the performance assessment. In the event of illness, the usual procedure is not to do the performance assessment or to withdraw during the performance assessment. This must be promptly reported on the same day to the Examinations Office at the Rectorate and a medical certificate must be handed in within two days. An exam candidate who, despite illness, takes a performance assessment runs the risk of performing badly and no longer has the chance to make a cancellation request. This point is clearly stated in the document "Regulations for Examination Schedule", the content of which all exam candidates are expected to be familiar with.