



Guidelines for appeals at Lund University

Appealable decisions

Some of the decisions that the University takes can be appealed. In most cases, the appeal is addressed to the Higher Education Appeals Board (ÖNH). Chapter 12 of the Higher Education Ordinance (1993:100) contains an exhaustive list of the decisions taken by a university which may be appealed. This applies to decisions on appointments (with certain exceptions), admissions, credit transfer, exemption from certain elements of a study programme, withdrawal of resources for a doctoral student, degree certificates and course certificates. With regard to decisions (cautions or suspensions) by the University's Disciplinary Board, appeals must be addressed to a general administrative court. A University decision to refuse access to public documents can be appealed directly to the administrative court of appeal. For a list of the decisions which are appealable in different types of cases please refer to *appendix 1*. Please note that the list in the appendix is not exhaustive. Decisions that are taken based on legislation other than the Higher Education Act or the Higher Education Ordinance may be appealed to a general administrative court if the decision is likely to affect someone's situation in a more than insignificant way (see the decision by the Administrative Court of Appeal in Stockholm 10 January 2019, case no. 4546-18).

Right of appeal notice

If a decision goes against a party and is appealable, the party concerned is to be informed as to how to appeal against the decision. A right of appeal notice shall include information on the form and content requirements of an appeal as well as what applies with regard to submission and time limits for appeals (see Section 33 second paragraph of the Administrative Procedure Act (2017:900)). Please see for a template for right of appeal notice, *appendix 2*.

The University's processing of an appeal

Since an appeal is to be addressed to the ÖNH, the administrative court of appeal or other instance to review the appeal but is sent or handed in to the instance that took the decision against which the party wishes to appeal, the University must process the appeal.

What must the University do when an appeal comes in?

1. If the appealed decision is manifestly wrong, the University shall change its decision (in accordance with Section 38 of the Administrative Procedure Act) on condition that this can be done quickly and easily

without it constituting a disadvantage for any individual party. Remember that appeals against appointment decisions are matters in which several parties are involved and that, therefore, changes cannot be made in such cases. (In cases of promotion to professor or senior lecturer, however, only one party is concerned and a change as a result of an appeal will not be a disadvantage to anyone.)

2. The University shall verify that the appeal has been lodged in due time (see Section 45 of the Administrative Procedure Act).

The appeal must have been submitted within three weeks of the day the appellant was informed of the decision by the University. If a party is informed of the decision by mail and there is no acknowledgement of receipt, it may be difficult to determine the exact day the appellant was informed of the decision. In such cases, the University must, as a rule, accept that the appeal has been lodged in due time even in cases where it is received after the three week period.

If the appellant is a party representing the public, the appeal must have been submitted within three weeks of the day the appellant was informed of the decision (see Section 44 of the Administrative Procedure Act).

Information on a public authority's decision on an appointment matter must be displayed on the authority's notice board (see Section 7 of the Employment Ordinance (1994:373)). Please note that the time allowed for filing an appeal against an appointment decision is calculated from the day the decision was made public (see Section 22 of the Employment Ordinance).

Remember that a document that is in the University's mailbox when it is first emptied on a particular day shall be considered to have been received the closest previous business day at the earliest (see Section 22 third paragraph of the Administrative Procedure Act).

If the appeal has been lodged *in time*, proceed to **point 3**.

If the appeal has come in *too late*, the University must *reject* the appeal in a written decision with the justification that it was not lodged in time. In such cases, a right of appeal notice must also be attached. For a template for an appeal rejection, see *appendix 3*.

If the University has not sent a correct right of appeal notice i.e. if the right of appeal notice proves to be incorrect or if the University failed to send a right of appeal notice and as a result of this the appellant sends or hands in his or her appeal too late, the appeal is *not* to be rejected (see Section 45 second paragraph of the Administrative Procedure Act). In this case, proceed to **point 3**.

Please note that the University should not and cannot verify whether the decision itself is appealable. The only thing the University is to verify is thus whether the appeal has been lodged in time.

3. The appeal document (the original, with a copy kept by the University) and copies of other documents relevant to the case are to be sent *within one week* of receipt of the appeal by the University to the ÖNH, administrative court or other instance that is to review the appeal in question (see JO 1995/96 p. 314, inter alia). The document must be sent even if the University has changed the appealed decision in accordance with point 1.

If, within the aforementioned week, the University is able to write a statement on the subject of the appeal, it should be attached to the appeal. If not, the appeal, together with copies of documents relevant to the case, must be sent as it is. Thus, the University may send a statement concerning the appeal in connection already with the submission of the appeal itself, but the writing of a statement must not delay the actual submission of the appeal.

For statements concerning appeals, the main rule is that the statement must be issued at the same level at which the decision being appealed was originally taken. Thus the submission of and statements concerning an appeal against a decision taken by the vice-chancellor, the university director, the deans or the faculty boards is to be made by the same officer or administrative body. In cases where the vice-chancellor, university director, the deans or the faculty boards have delegated their decision-making powers to another officer or body, the statement is usually to be issued by that officer or body. Decisions on delegation can, however, stipulate that statements concerning appeals are to be issued by the vice-chancellor, university director, the dean or the relevant faculty board.

These guidelines replace the Guidelines for appeals, 11 February 2010, reg. no LS 2010/103.

The decision on this matter was taken by the undersigned vice-chancellor in the presence of the university director Susanne Kristensson after a consultation with a representative of the Lund University Students' Unions, as well as a presentation by lawyer Johanna Alhem.

Torbjörn von Schantz

Johanna Alhem
(Legal division and records
management)

Sources

Prop. 2016/17:180 En modern och rättssäker förvaltning – ny förvaltningslag
Universitetskanslersämbetets vägledning Högskolornas handläggning av
överklaganden, 2018

Administrative Court in Stockholm's decision on 10 January 2019, case no. 4546-18
JO 1995/96 p. 314

Appendices

1. Appealable decisions (divided into case categories)
2. Template for the right of appeal notice
3. Template for appeal rejection



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Appealable decisions (divided into case categories)

First and second cycle education

The following decisions can be appealed to the Higher Education Appeals Board (hereafter ÖNH) (see Chapter 12 Section 2 of the Higher Education Ordinance):

- a decision that an applicant does not meet the admission requirements for first or second cycle education and a decision not to waive one or more admission requirements in cases covered by Chapter 7 Section 3 second sentence or Section 28 second paragraph of the Higher Education Ordinance;
- a decision on credit transfer of education or professional activity;
- rejection of a student's request to be exempted from a compulsory element of a course or programme;
- rejection of a student's request to obtain a degree certificate or course certificate, and
- a decision not to allow a student admitted to first or second cycle education to defer the start of his or her studies or to resume his or her studies after a leave of absence.

Third cycle education

The following decisions can be appealed to the ÖNH (see Chapter 12 Section 2 of the Higher Education Ordinance):

- a decision to withdraw study resources from a doctoral student pursuant to Chapter 6 Section 30 and a decision that a student is not to recover these resources pursuant to Chapter 6 Section 31.

Appointments

The following decisions may be appealed to the ÖNH (see Chapter 12 Section 2 of the Higher Education Ordinance):

- a decision on an appointment at a higher education institution, with the exception of an appointment to a doctoral studentship or as a senior lecturer in the case of promotion pursuant to Chapter 4 Section 12 c, and
- a decision according to Chapter 4 Section 13 to reject an application for promotion.

Disciplinary cases

Decisions by the Disciplinary Board on suspension or caution may be appealed to a general administrative court (see Chapter 12 Section 3 of the Higher Education Ordinance).

Equal opportunities cases

Appeals against a decision on the grounds that the decision is an infringement of the prohibition of discrimination or the prohibition of reprisals may be submitted to the ÖNH (see Chapter 2 Sections 5 and 19 of the Swedish Discrimination Act (2008:567)).

Confidentiality cases

Decisions in which the University has rejected an individual's request for access to a public document or has disclosed a public document subject to restrictions may be appealed to the administrative court of appeal. (NB! Such cases are handled by the Legal Division and Records Management).

Students' unions

Decisions on granting an association official status as a student union or decisions to withdraw such status may be appealed to the ÖNH (see Section 10 of the Higher Education Ordinance (2009:769)).



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How to appeal

If you wish to lodge an appeal against the decision, you must do so in writing to the Higher Education Appeals Board. However, the appeal document is to be handed in to Lund University.

Explain in your letter which decision you are appealing against, e.g. by providing the registration number of the decision, and the change to the decision that you are requesting.

The appeal must have been received by Lund University within three weeks of the day the appellant was informed of the decision.

alternatively (if the appeal is to be made to the Administrative Court)

If you wish to lodge an appeal against the decision, you must do so in writing to the Administrative Court in Malmö. However, the appeal document is to be handed in to Lund University.

Explain in your letter which decision you are appealing against, e.g. by providing the registration number of the decision and the change to the decision that you are requesting.

The appeal must have been received by Lund University within three weeks of the day the appellant was informed of the decision.



Appeal against decision (state date and registration number of decision); matter of rejection

(Decision-making body) decided on (day/month/year) the following: (what was decided.) (Name of party) was informed of the decision on (day/month/year).

Decision

The appeal is rejected, as it was not lodged within three weeks of the day (name of party) was informed of the decision and has therefore come in too late.

This decision was taken by XX (title and name) after a presentation by YY (title and name).

XX

YY

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