

Review of Graded Examinations

Legal Requirements and Recommendations

Dear Colleagues and Concerned Parties,

The following recommendations provide a summary of options for the student review of graded exams based on current **legal requirements** and **recommendations** compiled from a variety of sources, such as the guidelines of the working group on examination processes, guidelines of the TUM examinations management office, as well as feedback from TUM schools and departments themselves.

We are always happy to hear feedback from TUM schools and departments! Your feedback helps us provide better information to the entire TUM community, as it has here in the now fifth version of this handout.

Sincerely,

TUM Center of Study and Teaching

A. Purpose of the Review of Graded Examinations

- To identify areas/subjects/tasks missing from the student's performance To identify insufficiencies of understanding/knowledge that can be improved upon for the repeat examination
- To learn from mistakes
- To allow students the opportunity to compare their answers and approaches to the model solution

The review procedure is NOT intended as an opportunity for discussion or justification of the student's grade, nor for the extensive explanation of model solutions.

B. Dates/Duration

Legal Requirements:

- The review of examination records is regulated under § 25 Para. 3 of the General Academic and Examination Regulations (APSO) for bachelor's and master's programs and § 19 Para. 4 of the ADPO for *Diplom* programs. These regulations stipulate that, after the publication of the examination results, students, upon written and justified request, must be given the opportunity to inspect their written examinations, the related examiners' opinions and the records of the oral examinations, pursuant to Art. 29 (1) of the Bayerisches Verwaltungsverfahrensgesetz [Bavarian Administrative Procedures Act].
- The application for review of graded examinations must be received by the chairperson of the Examination Board no later than within one month of the publication of examination results.

- The chairperson of the Examination Board, in coordination with the examiner, will determine the time and location of the review. The Examination Board is responsible for the organization of the review and appropriate supervising staff.
- In recognition of students' legal rights, TUM schools and departments have elected to establish a date for the general review of examination results for all students taking exams without requiring an official written request.

Recommendations:

- The review of examination results should take place promptly (no later than 4 weeks after the publication of grades by the examiner, but before official notification has been sent through the Examination Office).
- The duration of the review should be determined on the basis of the scope of the examination to be reviewed. However, a minimum of 15 minutes must be allotted for review.
- We recommend scheduling time slots for the review of examinations with a large number of students.
- The date of review should, where possible, be announced on the day of examination.

C. Implementation:

Legal Requirements:

- Pursuant to § 29 of the Verwaltungsverfahrensgesetz [Administrative Procedures Act], the review of graded examinations must be structured so that students may inspect the content of the graded exam under reasonable conditions pertaining to time, place and other relevant circumstances.

Recommendations:

- The location and number of supervising staff should be sufficient enough to allow all students to review their graded exams without extended waiting times.
- Supervising staff should be able to explain the grader's corrections.
- Students should be asked to verify their identity with their student ID card.
- If there are large numbers of students reviewing their exams, we recommend you maintain a list recording the status (handed out / returned) of the examination. Supervising staff is responsible for verifying that all pages of the graded exam are handed out and returned in their entirety.

D. Copies/Photocopies of Graded Examinations

Legal Requirements:

- Within the scope of their legal right to review their graded examinations, students are entitled to make copies/photocopies of the graded exam.
- In order to take recourse to legal remedies regarding the erroneous grading of an examination, students are required to submit a substantiated complaint in writing. Students' right to effective legal protection (Art. 19 Para. 4 GG) may only be restricted by relevant regulation, provided there is material and justified cause. The re-use of examination questions at a later date does not constitute material and justified cause for prohibiting

students from making copies.

- As a rule, TUM schools and departments are not obligated to organize a means of photocopying in the scope of the examination review. However, it must be possible for students to have a copy of their examination made, for example, in the secretary's office of the respective Chair.
- Copying costs may be charged in accordance with Art. 10 Para. 2 of the Cost Law. The amount to be charged is regulated in the cost index. According to the cost index (No. 1 III 0/2.2), you may charge 50 cents per copy for the first 50 copies and 15 cents per copy thereafter.
- Copies and pictures of graded examinations may only be used by students for the purpose of reviewing the graded examination. The dissemination of copies and photos of graded exams in print or using electronic media (online publication) is prohibited, as examinations are generally protected by copyright.
- Students must be clearly informed of their legal obligation not to disseminate or publish examination questions and that doing so may make them liable to prosecution.

Recommendations:

- Inform students attending the review where they can make copies (e.g. administrative office of the department).
- Keep the procedure for collecting payment for copies as simple as possible (e.g. a cash box for direct payment with receipt).
- If there are concerns about students distributing copies/photos of the graded exam to third parties or putting them online, you may consider one of the following strategies:

Require students to sign a written statement such as, "I am aware that the questions on the examination, as well as the examiners comments and feedback, are protected under copyright law and that my use of copies/photos of the graded exam is limited to the purpose of review only. It is, therefore, prohibited to distribute copies/photos of the graded exam to third parties or to publish them on the Internet. Doing so may result in legal action against me. My right to appeal the outcome of the examination remains unaffected by this stipulation (i.e. I retain the right to share a copy/photo of the exam with an authorized attorney working on my behalf)."

Alternatively, copies of the graded exam may be produced on paper containing the following footer, watermark or similar copyright measures: The questions on this examination, as well as the examiners comments and feedback, are protected under copyright law. The use of copies/photos of the graded exam is limited to the purpose of review only. It is, therefore, prohibited to distribute copies/photos of the graded exam to third parties or to publish them on the Internet. Doing so may result in legal action against me. My right to appeal the outcome of the examination remains unaffected by this stipulation (i.e. I retain the right to share a copy/photo of the exam with an authorized attorney working on my behalf)."

E. Sample Answers/Grading Scale

Legal Requirements:

- In principle, the right to review graded examinations relates only to administrative processes, e.g. written examinations and the assessment of the student's performance on the exam, as well as the official record of oral examinations, cf. § 29 Abs. 1 APSO.
- Sample answers are not part of the specific examination procedure of individual students, but rather serve merely as a general, non-binding aid to examiners. Accordingly, sample answers do not comprise part of the administrative process, as a rule. Students, thus, do not have the general right to view the sample answers.
- As relates to final theses (bachelor's, master's or *Diplom*), examiners must attach a document providing clear and understandable reasons for the student's grade.
- The grading scale represents a central factor of assessing student examination performance. Grading scales must be published in accordance with the laws governing examination.

Recommendations:

- Provide students access to sample answers.

F. Contestation

Legal Requirements:

- The period in which the student may file an objection begins officially as soon as the legally-binding notice of the student's grade (Notification of Examination Results, including legal remedies) has been published in TUMonline or received per post.
- Objections to examination grades must be filed within the defined period.
- Pursuant to established case law, it is not permissible to lower the examination grade in cases of objection to examination results for reasons of equal opportunity.

Recommendations:

- Grades should be entered as valid only after the student's objections within the scope of the review of graded exams have been taken into account. It is, thus, important to hold the review of graded exams before the TUM-wide deadline for the submission of grades.

G. Power of Attorney:

Legal Requirements:

- As a rule, only the student is permitted to look at his or her graded examination within the scope of the scheduled review. If the student is represented by a lawyer,

examination documents are to be made available to the authorized lawyer in a separate appointment. The TUM school or department is responsible for arranging this appointment. As a rule, however, students do not have legal representation until objection proceedings begin. At that point, the review of relevant documents (the graded exam) takes place through the Office of Academic and Student Affairs - Legal Division, which is responsible for appeals.

- The examination board is responsible for deciding if, in exceptional cases, other persons authorized by the student, e. g. fellow students, are allowed to review the graded exam.

Recommendations:

- The authorization of a fellow student should be permitted only in well-grounded, exceptional cases (e.g. hospitalization).