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.

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 (see Section 21, second paragraph, of the Administrative Procedure Act). If, for example, the University refuses a student’s application for approved leave from studies, the University must, in connection with the decision, provide a right of appeal notice to the student. For a template for the right of appeal notice, see Appendix 2.

The University’s processing of an appeal

Since an appeal is to be addressed to the ÖNH (or whatever instance is to review the decision), but is sent or submitted 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 must change its decision on condition that this can be done quickly and easily without it constituting a disadvantage for any individual party (reconsideration according to Section 27 of the Administrative Procedure Act). If the University thereby changes the decision exactly according to the wishes of the appellant, the case can then be closed. If not, proceed to point 2. Remember that appeals against appointment decisions are matters in which several parties are involved; therefore, simple reconsideration cannot be applied to such cases.
(This does not apply, however, to decisions on promotion to professor or senior lecturer, in which only one party is involved and a change of decision cannot be detrimental to anyone.) (See the Swedish Higher Education Agency’s supervisory report on the handling of appeals at higher education institutions, 2006:51 R, page 17)

(Please note that for a reconsideration or correction to be possible, it is not a requirement that the decision is appealable, see Hellners, Malmquist, Förvaltningslagen – med kommentarer, 2 uppl., 2007, Norstedts Juridik, [Administrative Procedure Act – with comments, 2nd edition, 2007], p. 341.)

2. **Verification of time limit**, i.e. check that the appeal has been lodged in due time (see Section 24 of the Administrative Procedure Act).

Normally, the appeal must have been submitted within three weeks of the day the appellant was informed of the decision. If a party is informed of the decision by mail, it is important that the decision is sent accompanied by an acknowledgement of receipt so that in the event of an appeal, the University can verify that the appeal has been lodged in due time. The appellant can also be considered to have been informed of the decision if he/she has been made aware of its contents in their entirety in some other way, for example if the decision was communicated verbally in the presence of the appellant. Information on a public authority’s decision on an appointment issue must be displayed on the authority’s bulletin board. Please note that the time allowed for filing an appeal against an appointment decision is calculated from the day the decision was made public.

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

If the appeal has come **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. Template for appeal rejection, see **Appendix 3**.

If the right of appeal notice proves to be incorrect 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 24, paragraph 2 of the Administrative Procedure Act). In this case, proceed to **point 3**.

If, on the other hand, the University fails to send a right of appeal notice and this results in the appellant submitting his or her appeal too late, the appeal is to be rejected. (See Hellners, Malmquist, Förvaltningslagen – med kommentarer, 2 uppl., 2007, Norstedts Juridik [Administrative Procedure Act – with comments, 2nd edition, 2007], p. 249)

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

3. The appeal document (the original, with a copy kept by the University in the case file) and copies of other documents relevant to the case are to be sent to the ÖNH (or the instance that is to review the appeal in question) **within a week** of reception of the appeal by the University. (See JO 1995/96 p. 314, among others).
On its website (www.onh.se), the ÖNH has published the following list of the documents that it wants the higher education institution to attach to an appeal document when sending it in.

**Appointment issues**
- the University’s decision on the person specification and the vacancy announcement
- application documents for the appointee and the appellant/s
- any expert statements, statements from recruitment groups or similar organisations
- any statements about the applicants from the academic appointments board, faculty board or suchlike
- the appointment decision
- the original appeal document

**Other cases**
- application documents
- any statements made during the processing of applications by departments, course directors or suchlike
- the decision being appealed (in the case of admissions: the notification on admission)
- the original appeal document

If, within the week before the appeal must be handed over to the ÖNH (or other instance), the University is able to write a statement on the subject of the appeal, it is appropriate to attach this statement to the appeal. If not, the appeal together with copies of documents relevant to the case must be handed over as they are. Thus the University can already send a statement concerning the appeal in connection with the submission of the appeal itself to the ÖNH, but the writing of a statement is not permitted to delay the actual submission of the appeal.

For statements concerning the appeal, the main rule is that the statement must be issued at the same level at which the decision being appealed was originally taken. Thus any statements concerning an appeal against a decision taken by the Vice-Chancellor, the head of the administration, deans or faculty boards are issued by the same officer or administrative body. In cases where the Vice-Chancellor, the head of the administration, the deans or the faculty boards have delegated their decision-making powers to another officer or body, the statement is usually issued by that officer or body. Decisions on delegation can, however, stipulate that statements concerning appeals are to be issued by the Vice-Chancellor, the head of the administration, the dean or the relevant faculty board. (See Regulations on the allocation of decision-making powers at Lund University, LS 2009/85, decided by the Vice-Chancellor on 29 October 2009).
The decision to establish these guidelines was taken by the undersigned Vice-Chancellor after a presentation by lawyer Johanna Alhem in the presence of the head of the University administration Marianne Granfelt.

Per Eriksson

Johanna Alhem
(Management Support)

Sources:
Hellners, Malmquist, Förvaltningslagen – med kommentarer, 2 uppl., 2007, Norstedts Juridik
Högskoleverkets tillsynsrapport Högskolornas handläggning av överklaganden, Rapport 2006:51 R
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.

Appointment procedure

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, as a professor or as a senior lecturer in the case of employment pursuant to Chapter 4 Sections 11, 13 or 13 a or as a senior lecturer or lecturer in the case of employment pursuant to Section 30 paragraph 5 third sentence;
- a decision pursuant to Chapter 4 Section 28 third paragraph to reject an application for promotion;
- a decision according to Chapter 4 Section 28 third paragraph to reject a request for appointment as professor, and
- a decision according to Chapter 4 Section 28 fourth paragraph to reject a request for appointment until further notice of a senior lecturer or lecturer.

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

The following decisions may be appealed to the ÖNH:

Decisions on the grounds that the decision is an infringement of the prohibition of discrimination or the prohibition of reprisals (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 of the University’s Management Support.)

Student unions

The following decisions may be appealed to the ÖNH:

Decisions by the University Board on student unions, etc. (NB Applies until 30 June 2010)

Decisions on granting an association official status as a student union or decisions to withdraw such status. (As of 1 July 2010)

Other

Decisions to reclaim educational grants from a doctoral student (ordinance (1995:938) on educational grants for doctoral students).
Appendix 2

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 sent or handed in to Lund University, Box 117, 221 00 LUND.

You must indicate which decision you are appealing against, for example by providing the registration number of the decision, and the change in the decision which you are requesting as well as the circumstances you are referring to in support of the change requested.

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); now being rejected

(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

How to appeal

If you wish to appeal, you must do so in writing to the Higher Education Appeals Board. However, the letter is to be sent or handed in to Lund University, Box 117, 221 00 LUND.

Explain in your letter which decision you are appealing against, e.g. by indicating the registration number of the decision, and the change to the decision that you are requesting along with the circumstances you are referring to in support of the change requested.

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