

Please note that the English version of this fact sheet is purely for your convenience and is not legally binding. Only the German version is legally binding!

## Fact Sheet on Cheating Attempts in Written Exams

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### 1. Legal Basis

The entire exam-taking and assessment process is governed by the principle of equal opportunity in line with Article 3 (1) Basic Law (GG). All examinees should take their exam under comparable exam conditions. This results in the requirement that students complete their exams independently, i.e. without external assistance or unauthorized aids. The equal opportunity principle is particularly violated when examinees attempt to gain an academic advantage over others through cheating attempts.

Sanctions against examinees, such as discontinuing an exam due to (attempted) cheating, require a normative framework. This is regulated in § 15 (7) of the General Examination Regulations (GER):

*"If the candidate attempts to influence the result of an exam by cheating, e.g. using unauthorized aids, the exam in question shall be graded "insufficient" (5.0). The respective examiner or the exam supervisor shall determine this and put it on record. If a cheating attempt is detected in exams, the individual's exam shall be discontinued and the work confiscated. The status of the work, the date and time, and the type of cheating attempt must be documented and signed by the supervisor. If a candidate disturbs the orderly conduct of an exam, the respective examiner or supervisor may, as a rule, exclude a them from continuing their exam if, despite a prior warning, they continue to cause a disruption. In this case, the exam in question shall be graded "insufficient" (5.0). The reasons for the exclusion shall be put on record. In the case of multiple or other serious attempts at cheating, the candidate's enrollment may also be terminated."*

### 2. Academic Misconduct and Cheating Attempts

#### 2.1 Cheating Attempt in a Written Exam

The overarching concept of a cheating attempt includes both the case of serious malicious deception, successfully gaining an academic advantage, and the principal case – the actual attempt to cheat, which is usually discovered before the evaluation of the exam and does not require the completion or the success of an attempt to gain an advantage.

In any case, the existence of academic misconduct is a prerequisite. This means that a candidate feigns an independent and regular examination performance, while they have in fact used unauthorized aids, inadmissible methods, or had assistance from third parties (see Niehues/Fischer/Jeremias, Prüfungsrecht, 7th edition, marginal number 229, with further references). Assisting a third party, such as providing them with one's own solution, is not considered academic misconduct.

A [cheating attempt](#) can already be assumed at the attempt stage if a generally suitable but unauthorized aid is brought into the exam room for the purpose of cheating. In this context, it is irrelevant whether an unsuitable attempt was actually made (Ex: having a cheat sheet on one's person that is related to the exam topic, but is unsuitable in helping to answer the special exam tasks) or whether the unauthorized aid was indeed even used at all. It is a violation of the examination regulations to have an unauthorized aid on one's person in the first place. Merely preparing for a later cheating attempt, however, does not constitute academic misconduct in line with exam law.

Since the attempt to cheat itself constitutes a violation of the examination regulations, a completed cheating attempt is always considered an offense.

A successful [academic advantage gain](#) is, for example, the successful use of a cheat sheet or a brief exchange of words between examinees with the aim of sharing exam knowledge.

A [serious cheating attempt](#) refers to a particularly serious violation of anti-cheating provisions. This may include, for example, the organized collaboration of several individuals or the particularly elaborate use of unauthorized aids.

The above differentiation is not relevant in terms of determining a cheating attempt; it merely serves as a basis for deciding on the choice of legal consequence. The differentiation must always be made taking into account all the overall circumstances of the individual case.

## 2.2 Plagiarism

Plagiarism is the appropriation of another's intellectual work without proper citation of the source. This may refer to the presentation of another person's written or visual work, ideas or findings, etc.

Plagiarism is a form of cheating that is presumably frequent in research papers, such as term papers or final theses, when the candidate uses another person's work without indicating it as such.

Academic ghostwriting does not constitute a cheating attempt, nor is it punishable as such.

However, using a ghostwriter may be considered a violation to the requirement of § 6 (9) GER, therefore, the candidate may be liable to prosecution for submitting a false affirmation in lieu of an oath pursuant to § 157 of the German Criminal Code (StGB).

No cheating is to be assumed for cases of written exams in which aids are not authorized and the candidate presents previously acquired work, e.g. from a textbook, without citing it. However, the presentation of memorized texts in a written exam may sometimes not meet the requirements of independent academic work and may, therefore, be reflected accordingly in the evaluation.



As a rule, cheating attempts do not constitute criminal offenses in the same way as forgery or fraud offenses (particular individual cases of plagiarism allegations may be an exception to this).

### 2.3 Alterations at an Exam Viewing

An alteration of an exam script at an exam viewing does not constitute academic misconduct, which can potentially lead to a subsequent sanction grade of "insufficient" (5.0), since the exam-taking and assessment process is already finished by the time of the viewing session.

If there is suspicion that an exam script has been altered, criminal charges can be filed on account of document forgery. Division 1.1 – Academic Affairs, Examination and University Law will report such cases.

### 2.4 Particularities of Remote Exams

- ➔ Bathroom breaks during proctored remote exams should not be restricted and do not constitute an attempt to cheat.
- ➔ Disconnection shall not constitute an attempt to cheat and shall not result in an immediate failure to pass a remote exam proctored by a video conferencing system without a review. If there is a technical failure during a remote exam that is caused by the video conferencing system (e.g. loss of connection or the video feed freezes up), which significantly disturbs the examination, the exam must be terminated and rescheduled (§ 7a (4) GER). If the grade entry is required before the exam retake, the grade entry "TS" (Technical Issues) must be entered in RWTHonline in such cases. If the problems with the audio and/or visual connection are minor and do not significantly disturb the exam, the exam can be continued. The decision on whether a technical problem is to be considered a significant disturbance to the exam lies with the examiner(s).

If the student terminates a written remote exam proctored via a video conferencing system and it cannot be established that the loss of connection is due to a technical failure, the exam will be graded "insufficient" (5.0) in line with (§ 7a (4) GER). The grade entry "PA" (Exam Aborted) shall be recorded in RWTHonline. The free attempt regulation does not apply in such cases.

- ➔ If the exam is not completed within the allotted writing time, it shall be graded "insufficient" (5.0). In the case of a remote written exam, the exam shall generally only be considered completed when the exam has been successfully uploaded. If, in individual cases, it is clear from the supervision that the candidate is no longer writing and a "delay" is exclusively due to technical difficulties, accommodating solutions should be found.

- It is not necessary to acquire cheat sheets or to take screen shots or the like in order to prove a case. The record of the supervisor's own suspicion is sufficient, as in face-to-face exams.

### 3. Legal Consequences

When choosing the appropriate legal consequence, the principle of proportionality must be observed. The mildest means suitable to achieve the legitimate purpose must always be chosen. In this context, the means must not be disproportionate to the objectives pursued when the conflicting interests are weighed up.

- Issuing a warning for minor offenses, such as the detection of a barely usable cheat sheet that can be confiscated before the exam begins or a brief exchange of words between examinees during the exam.
- As a rule, in the event of a cheating attempt, the exam is to be canceled and graded as "insufficient" (5.0).
- In the case of multiple or a first yet serious cheating attempt, the candidate's enrollment can also be terminated.

### 4. Process if a Cheating Attempt Is Detected During an Exam

- a) The respective examiner or supervisor shall make the factual determinations in ascertaining the existence of a cheating attempt.
- b) The exam shall be canceled and the work shall be confiscated.



If, in individual cases, the supervisor is uncertain about whether a cheating attempt exists, the exam should not be canceled. The steps described under c) and d) must nevertheless be followed. This is conceivable, for example, if in the exam situation the supervisor cannot conclusively determine whether a specific aid is authorized.

- c) The status of the work, the date and time, and the type of cheating attempt must be documented and signed by the exam supervisor.



In principle, the examining authority bears the burden of proof, i.e. they must clearly prove that the examinee has attempted to cheat. The facts that led to the assumption of a cheating attempt must therefore be adequately recorded. In the case of a gross violation, the reasons for choosing a particular sanction must also be recorded.

- d) Process after completion of the written exam

The examiner shall report the established and documented facts concerning the matter to the responsible examination board.

As a provisional sanction grade, the grade "insufficient" (5.0) shall be recorded by the examiners immediately after the attempted cheating has been established (i.e. before a decision is made by the examination board), so that the examinee concerned can register for a retake opportunity.

The grade entry "U" (Cheating – 5.0 Failed) shall be recorded in RWTHOnline. The examiners shall not evaluate the exam.

The examination board shall hear the candidate, carry out the legal assessment as to whether, according to the facts presented by the examiner, a cheating attempt has actually been made, and inform the candidate of their decision by means of a justified notice (§ 15 (8) GER).



If the examination board comes to the decision that there has been no attempt at cheating in the individual case, the candidate must be offered an exam opportunity in the form of a written or oral exam in a timely manner.

#### **5. Process if a Cheating Attempt Is Determined After the Written Exam**

If suspicion of cheating is only determined after the written exam, it is no longer possible to cancel the exam. In this case, the written exam shall not be assessed or the assessment will be canceled and the process described in 4 d) above will be initiated.

If it turns out that there was no cheating attempt, the exam in question is to be evaluated and the grade actually achieved is to be entered instead of the sanction grade of 5.0.