

# **Instructions for revoking and restoring the right to study**

HUMAK University of Applied Sciences

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# 1 BACKGROUND

SORA provisions and regulations deal with measures and solutions for students who are unsuitable for their studies. The abbreviation SORA stands for solutions related to unsuitability for study. Collectively, the SORA provisions and regulations are referred to as SORA legislation.

The SORA provisions are a legislative package that comprises the Act on Vocational Education and Training (630/1998), the Act on Vocational Adult Education (631/1998), the Universities of Applied Sciences Act (932/2014) and the Universities Act (558/2009). The SORA legislation does not apply to general upper secondary education.

The key objective of the SORA legislation is to improve safety in education and subsequently in the workplace and to give education providers, degree providers and higher education institutions better possibilities to intervene in cases where a student is unsuitable for their selected field. The objectives also include ensuring students' legal protection in problematic situations related to studying and to clarify the regulation, making it possible to base procedures on legislation and regulations issued by virtue of it.

These instructions were first adopted by the Executive Board of Humak University of Applied Sciences (Humak) on 22 February 2012. The instructions will be reviewed as necessary. The instructions are reviewed by Humak's Student Welfare Team and approved by the Rector.

In Humak, the SORA legislation is applied to revoking and restoring a student's right to study in the following degree programmes:

- Community Educator, Bachelor's degree
- Interpreter, Bachelor's degree

With regard to drug testing, the legislation applies to all Humak students in keeping with the valid early intervention model.

The documents guiding the equality and safety of the study environment, ethical considerations in the activities and legal protection, comfort and accessibility of studying apply to all Humak students.

## **2 STUDENT ADMISSION REQUIREMENTS**

### **2.1 Student admission health requirements**

Health requirements can be set for applicants in the fields of humanities and education in Humak. However, an issue related to health or functional capacity cannot be a barrier to admission if it can be removed by reasonable means.

In student admissions, the principle of applicants' equality means that no one may be discriminated against on the basis of their age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family relationships, health, disability, sexual orientation or other personal characteristics. Discrimination is prohibited regardless of whether it is based on a fact or assumption concerning the person or someone else. (Non-Discrimination Act 1325/2014). Accessibility in student admissions is a precondition for the realisation of equality.

However, a person who is unable to complete practical assignments or training included in the studies because of their health or functional capacity cannot be admitted as a student. When the studies involve requirements concerning the safety of minors or patient or client safety, Humak requires applicants to provide additional information on meeting the health and functional capacity requirements.

A previous decision to revoke a student's right to study may also prevent admission if this is necessary because of factors associated with protecting another person's health and safety. A prior decision to revoke a student's right to study is not automatically an obstacle to applying for a place in education in the relevant fields, as the situation is always considered separately in each individual case.

### **2.2 Access to information on student admissions**

Humak informs applicants of the health requirements and other prerequisites for the studies (for example, the fact that a prior decision to revoke their right to study may prevent their admission). The health and functional capacity requirements specific to each field are described on the [uasinfo.fi](http://uasinfo.fi) website (Health and functional capacity required for studies). The applicant must

provide the information on their state of health required to assess the possibility of admitting them.

In the application form found in the Studyinfo service, the applicant is asked the following questions:

- Are there such factors in your state of health or ability to function that would not allow you to study in the degree programme(s) to which you are applying?
- Has an educational institution withdrawn your study right because 1) health or functioning ability issues have been an obstacle to your studies or 2) you have endangered other people's health or safety repeatedly and seriously or 3) you have been convicted on serious crimes stated in universities of applied sciences act or in universities act?

If the applicant's answer is "yes" to both or one of the questions on the application form and they are admitted, their study place is conditional. Humak will process and assess the health and functional capacity information required for admission. An applicant may be admitted to the degree programme if the health-related barrier can be removed by reasonable means.

The applicant will receive an e-mail asking them to submit a health form and a statement from a health care professional and, if necessary, information on prior revocation of their right to study.

The applicant must submit the requested documents and their attachments by the given deadline. The documents submitted by the applicant will be handled by a Planner in the Admissions and Student Services and the Director of Education. If the information submitted by the applicant is insufficient, they may be requested to provide additional information. The documents are confidential. Decisions relating to health and functional capacity are made by the Director of Education. The study place is conditional until Humak has processed and assessed the information on the applicant's health and functional capacity required for assessing their admission.

Humak can cancel the applicant's study place if

- the certificates are not submitted by the deadline given by Humak

- the applicant has provided incorrect information about themselves
- it is obvious that the student's health or functional capacity do not meet the admission requirements (Universities of Applied Sciences Act 932/2014)
- the student has concealed a previous decision to revoke their right to study (Universities of Applied Sciences Act 932/2014).

At Humak's request, the applicant must also provide information on a previous decision to revoke their right to study required to assess their admission. Humak is entitled to obtain from another educational institution the necessary information on a decision to revoke an applicant's right to study and its justifications that are needed to assess the applicant's admission. The student selection is conditional until Humak has examined the documents the applicant is required to submit. Humak may cancel the selection if the required documents are not submitted by the deadline given by Humak, or if the applicant has provided incorrect information about themselves at the application stage.

## **3 REVOCATION AND RESTORATION OF THE RIGHT TO STUDY**

### **3.1 Revocation of the right to study**

Under the Universities of Applied Sciences Act (932/2014, section 33), a student's right to study in Bachelor's degree programmes in humanities and education may be revoked as a last resort. The right to study may be revoked if the studies impose demands on the safety of minors, patient or client safety, or traffic safety and if

- 1) the student has in their studies, by repeatedly or seriously endangering the health or safety of another person, proven to be manifestly unsuitable to perform practical assignments or practical training relating to studies;
- 2) it is evident that the student does not fulfil the prerequisites for admission referred to in section 26, subsection 1 of the Universities of Applied Sciences Act in regard of their state of health or functional capacity; or
- 3) at the application stage, the student has concealed a decision to revoke the right to study referred to in section 26, subsection 2 of the Universities of Applied Sciences Act which could have precluded their admission as a student.

If working with minors is an essential requirement in the studies or practical training included in them, Humak may revoke the right to study if this is necessary to protect minors and if the student has been sentenced for a sexually obscene act, a sexual offence, an aggravated offence against life or health or a drug-related offence that is more serious than minor.

#### **3.1.1 Revocation of the right to study on the basis of unsuitability**

The precondition for revoking a student's right to study on the basis of unsuitability is that the student has repeatedly or seriously endangered the health or safety of another person through their actions or negligence. Repeated endangerment may, for example, arise from insufficient or incorrect action or by an indifferent attitude that continues despite cautions. For example, a

serious danger may arise when a student materially neglects the safety regulations of the workplace.

An isolated case of damage caused by carelessness does not meet the prerequisites for revoking a student's right to study if the act or negligence does not indicate that the student is manifestly unsuitable for working in practical tasks or training related to the studies.

### 3.1.2 Revocation of the right to study on the basis of health and functional capacity

Revocation of the right to study on the basis of health or functional capacity is only possible in exceptional cases and exclusively when a certain state of health has been a requirement for student admission (see section 3.1 above). However, already having endangered the safety of another person in practice is not a requirement for revoking the right to study on the basis of health and functional capacity.

Revocation of the right to study on the basis of health and functional capacity may be considered in situations where the student could not originally have been admitted to the degree programme under a provision on obstacles to admission, had the issue concerning their health in question already been known at the application stage. The reasons for the revocation may also include serious factors affecting the student's physical or psychological functional capacity that prevent them from coping with practical tasks or training.

Serious disorders do not refer to mental health problems that, when treated, do not constitute an obstacle to admission to and participation in the degree programme. As a serious disorder is deemed an acute substance abuse problem or serious endangerment of safety of studies due to substance abuse. There are no grounds for revoking the right to study if the obstacle can be removed by reasonable means (see section 2).

If a student is suspected of having an impediment related to their health or functional capacity that could justify the revocation of their right to study, they may be ordered to undergo examinations and tests carried out by health care professionals. In this case, Humak will bear the costs of such examinations and tests.

At its discretion, Humak may request the student to submit a medical report including an assessment of their functional capacity based on the examination or test. If the student refuses to undergo a medical examination, their right to study may be suspended until they agree to the necessary examinations and tests, at most within one month. If the student does not agree to undergo the necessary examinations and tests within one month, the process of revoking the right to study will be initiated.

### 3.1.3 Revocation of the right to study due to a previous revocation decision

A student's right to study may be revoked if they have at the application stage concealed information about a decision to revoke their right to study that could have prevented their admission. The precondition for revoking a student's right to study because they have concealed a previous revocation decision is that Humak has requested information on the decision to revoke the student's right to study at the application stage.

Humak has the right to obtain from another educational institution the information on a decision to revoke the student's right to study and its justifications (for example, if the right to study was revoked due to unsuitability or an impediment related to health and functional capacity) that are needed to assess the right to study. Humak also has the right to provide similar information to another educational institution. The Head of Administration is responsible for providing and requesting this information in Humak.

### 3.1.4 Revocation of the right to study based on an extract from the criminal records

Revocation of a student's right to study on the basis of an extract from the criminal records is associated with the need to protect the personal integrity of minors. The university of applied sciences has the right to request that the student provide an extract from the criminal records when the studies include tasks that essentially require working with young people and children (section 6, subsection 3 of the Criminal Records Act 770/1993). The students are informed of their obligation to submit an extract from the criminal records immediately at the beginning of their studies, and they must personally ensure that they present this extract by the given deadline.

Before starting supervised practical training included in their studies, the student may be asked to present an extract from the criminal records if the placement involves working with minors. The need to present an extract from the criminal records is assessed in relation to each work placement and set of tasks.

The student requests the extract from the Legal Register Centre and presents it to the coach responsible for their group or the lecturer responsible for the training before the training agreement is drawn up. The coach responsible for the group or the lecturer responsible for the training enters the date on which the extract from the criminal records was issued in Peppi. The student cannot start their training period until they have presented a valid extract from the criminal records. The student's right to study may be suspended until they present the extract from the criminal records.

An extract from the criminal records is valid for six months at a time, which means that the student must ensure that their extract from the criminal records remains valid. This may require requesting and presenting an extract from the criminal records in connection with each training period. For example, if the training is divided into shorter periods throughout the academic year (or longer), an extract from the criminal records must be presented every six months.

The offence categories examined are the same as those referred to in the Act on Checking the Criminal Backgrounds of Persons Working with Children. If the extract from the criminal records has an entry concerning a criminal conviction, the student must immediately bring this up with the lecturer responsible for the training and, if necessary, discuss it directly with the Director of Education. An entry indicating a criminal conviction in the extract from the criminal records does not automatically mean that the student's right to study will be revoked, and the matter will always be considered in each individual case. This consideration may be influenced by such factors as the field of education, the offence committed, the time that has lapsed since the offence was committed and the length of the sentence.

### **3.2 Process of revoking the right to study**

Rather than a punishment, the revocation of a student's right to study is a correction of student admissions, and its aim is to improve the safety of the study and working environment. Before

taking steps to revoke a student's right to study, the means of helping the student are identified together with the student. Students are guaranteed access to adequate guidance, student welfare services and other preventive support measures.

### 3.2.1 Initiation

The process of revoking the right to study starts when a staff representative or training supervisor notices that the student's functional capacity is impaired. The person making this observation contacts the coach. The placement primarily contacts the lecturer who signed the training agreement, after which the lecturer takes the matter to the coach.

In Humak, the decision to initiate the process of revoking the right to study is made by the Director of Education after hearing the coach and the student. Before the matter is decided, the student must be heard and given an opportunity to familiarise themselves with the documents on which the decision is based. The student has the right to ask either a representative of the student union HUMAKO or a student representative of their choice to participate in the discussion.

From the perspective of both the student's and the staff's legal protection, it is important that all the different stages of the process are clearly documented, including the initial contact by the person who made the observation. The documentation must be sufficiently accurate to make it possible to verify the facts later. The contact concerning the observation and discussions between the coach and the student are documented in a memorandum, which should include at least the following:

- description of the situation and the original observation
- the student's view of the situation
- decision on the next steps in the matter or on concluding the process, with justifications
- the review of the document and its approval with the signatures of all participants
- archival of the documents in the Study Affairs Office, observing the provisions on archiving, confidentiality and destruction of documents.

The decision on the potential initiation of a process to revoke the student's right to study and referral of the matter to the Executive Board of the University of Applied Sciences is made by the Rector on the proposal of the Director of Education.

### 3.2.2 Decision and request for a review

The decision to revoke a student's right to study is made by the Executive Board of the University of Applied Sciences based on the Rector's proposal. The parties are informed of the decision made by the University of Applied Sciences with acknowledgement of delivery and consideration for secrecy provisions.

The student can address a request for a review of a decision to revoke their right to study to the national Students' Legal Protection Board within 14 days of being notified of the decision and, if necessary, lodge an appeal with the Helsinki Administrative Court. A decision to revoke the right to study can be enforced regardless of the request for a review, unless the Students' Legal Protection Board or the Administrative Court prohibits the implementation of the decision.

Before revoking the right to study, the student, the Admissions and Student Services and the coach determine together if the student can transfer to another degree programme within the higher education institution. With the student's consent, the student may be transferred to another degree programme of the University of Applied Sciences in which they meet the admission requirements. The Director of Education makes a written decision on the student's transfer to another degree programme, and the renunciation of the current right to study is recorded.

During the process of revoking the right to study, Humak offers personal study advice to the student. Humak works together with the authorities and other parties providing and organising student health care and student services and informs the student of the benefits and services organised by them. If necessary, the student is guided to seek these benefits and services.

## 3.3 Access to information on revocation of right to study

Humak has the right to obtain from another higher education institution information on a pending process of revocation of the right to study if the student has applied for a place in Humak as a transfer student. The request for information is made by the Head of Administration.

### **3.4 Restoration of the right to study**

The student can apply for the restoration of their right to study if the right was revoked due to a health or functional capacity issue. The precondition for restoring the right to study is that the applicant demonstrates that the reasons for the revocation no longer apply and submits medical reports to this effect to Humak. There is no deadline for applying for restoration of the right to study.

The request for restoration is submitted to the Rector of Humak. The student applying for restoration of their right to study always has the right to be heard in their case. While preparing the matter, the Rector may also consult the director in question, a physician, a public health nurse and other experts they consider necessary.

The Rector presents a proposal for a decision on the matter and presents it to the Executive Board of the University of Applied Sciences. The Executive Board discusses the matter and either approves the proposal for a decision or returns the matter for preparation. The Executive Board will no longer discuss the details of the matter, other than those that come up in the Rector's presentation.

The student can address a request for a review of the decision on restoring their right to study to the national Students' Legal Protection Board within 14 days of being notified of the decision and subsequently lodge an appeal with the Helsinki Administrative Court if necessary. The student has the right to receive guidance concerning support measures, regardless of whether the decision is in favour of restoration or not.

## **4 NATIONAL STUDENTS' LEGAL PROTECTION BOARD**

The national Students' Legal Protection Board is the first-level appellate body in matters concerning revocation and restoration of the right to study. Provisions on the Board are laid down in the Act on the Students' Legal Protection Board (956/2011).

The Board is an independent appellate body whose purpose is to ensure uniform application practice in cases of revocation and restoration of rights to study. Matters concerning the revocation and restoration of the right to study are processed urgently. The Board may deny the implementation of a revocation decision, either at the student's request or on its own initiative. The Board is appointed by the Government on the Ministry of Education and Culture's proposal for a term of three years, and the ministry also appoints the necessary number of part-time rapporteurs to the Board.

The Board consists of a part-time chairperson, a vice-chairperson and ten other members. In the composition of the committee, expertise in medical, legal and educational matters as well as representation of teaching staff and students are ensured.

## 5 PROCESSING OF SENSITIVE DATA

In Humak, the following roles may involve the processing of sensitive data:

- Executive Board of the University of Applied Sciences
- Rector
- Director of Education
- Head of Administration
- Student Services Planner
- Lecturer supervising training
- Coach

Information on an applicant's or student's health associated with the revocation and restoration of their right to study may only be processed by persons who prepare or make decisions on student admissions, revocation or restoration of the right to study, or disciplinary action. An extract from the criminal records may only be processed by persons who prepare or make decisions on revoking rights to study. All persons involved in the preparation or decision-making have an obligation to maintain confidentiality.

When processing the revocation and restoration of rights to study, disclosing personal data will be avoided as far as possible. Sensitive data is stored separately from the student's other data and deleted immediately when the grounds for storing them associated with statutory duties no longer exist, and no later than 4 years after the data was recorded. All inappropriate disclosures of secret information will be addressed (section 13 of the Administrative Procedure Act 434/2003).

## 6 RIGHT OF ACCESS TO INFORMATION

Notwithstanding secrecy provisions, a party in possession of information has the right to disclose information on the student's health and functional capacity to persons preparing decisions on revocation or restoration of the right to study or participating in decision-making, if this information is necessary in order for the recipient of the information to make a decision.

In Humak, access to and reception of information from other higher education institutions or external parties is handled by the Director of Education and the Head of Administration.

Notwithstanding secrecy provision, the party in possession of information has the right to disclose the following information on a student's health and functional capacity that is necessary for the performance of their tasks:

- Rector of the University of Applied Sciences and other persons responsible for the safety of the University of Applied Sciences to ensure the safety of studies
- persons responsible for student guidance (coach) for referrals to other studies and support services
- persons responsible for student health care to ensure the health and safety of the student and to direct the student to the necessary support measures
- persons responsible for training to ensure the safety of the student and the staff and clients in the placement
- the police and a representative of the University of Applied Sciences with primary responsibility for investigating threats to security for the purposes of assessing an immediate security threat, or if the health assessment finds that the student is a danger to the safety of others.

## SOURCES

University of Applied Sciences Act 932/2014

Degree Regulations of Humak University of Applied Sciences

Act 956/2011 on the Student's Legal Protection Board

Act 215/2012 amending the Criminal Records Act

Criminal Records Act 770/1993

Early intervention model. HUMAK University of Applied Sciences

Non-Discrimination Act 1325/2014