

## INFORMATION ON WHAT TO DO WHEN UNABLE TO TAKE EXAMINATIONS DUE TO ILLNESS

⇒ does not apply to *Staatsexamen* examinations

### 1. Basic information

The examination regulations for the degree programs at the Catholic University of Eichstätt-Ingolstadt allow for the possibility of withdrawing from an examination in the case of illness. In order to withdraw from examinations, students must submit an explanation of their reasons accompanied by suitable proof to the board of examiners via the Examinations Office immediately. Students are responsible for ensuring that they obtain proof that the documents were received.

The following documents are required:

1. A written declaration explaining that the examinee is unable to take the examination due to illness (specifying the exact name of the degree program, the title and date of the examination, the examiner, and the examinee's contact details)
2. Proof of illness (doctor's certificate [*ärztliches Attest*])

↳ See forms on the Examinations Office's website

'Immediately' means 'without undue delay'; i.e. the examinee must submit proof at the earliest possible point in time that could be reasonably expected. It is reasonable to expect the examinee to mail the doctor's certificate to the Examinations Office on the day of the medical examination (or the day after at the latest). If the certificate is sent by mail, the date on the postmark is considered the date of submission. If an examinee becomes ill during the examination, he or she must notify the examiner or examination supervisor (who will make a note in the records of the examination).

The doctor's certificate must be issued on the basis of a medical examination, which must take place before or on the day of the examination. If doctors' offices are closed, the student must go to the outpatient department of a hospital. Doctors' certificates issued after the day of the examination will not be accepted.

If a student is being treated as an in-patient at a hospital on the day of the examination, he or she must submit proof of this immediately.

Students are only permitted to withdraw before or during an examination. For reasons of equality, students may not withdraw after the examination, as this would give them an unfair advantage compared to the other examinees.

### 2. Determination of inability to take examinations/information required in a doctor's certificate

2.1 The illness must actually result in inability to take examinations (*Prüfungsunfähigkeit*).

According to the established case law of the Federal Administrative Court, whether or not the requirements to use the term '*Prüfungsunfähigkeit*' are fulfilled is a legal matter. This decision is made exclusively by the responsible board of examiners on the basis of the doctor's certificate provided, not by the doctor treating the student.

2.2 In order for the board of examiners to make this decision, doctors' certificates must meet specific requirements in terms of their content:

Communication issued by the Bavarian State Ministry of Education, Science and the Arts, no. XI/4 - 21/126 881, dated September 28, 1993:

*The doctor's certificate must describe the current physical, mental, and/or emotional disorders that are caused by the illness and cause the student to be unable to take examinations specifically and logically enough for the examining bodies to come to a conclusion on whether the student was genuinely unable to take examinations on the day of the examination. This means that if the student receives treatment as an outpatient or from a family doctor, the doctor's certificate must clearly describe the conditions preventing the student from taking the examination. The certificate does not have to contain a medical diagnosis. Any objections that the doctor may have about revealing the medical diagnosis to the university are therefore irrelevant.*

**Further clarification from the 20<sup>th</sup> report of the Bavarian data protection officer from 2002 (page 230):**

*The required content of a doctor's certificate that is necessary in order to prove a student's inability to take examinations is based on case law. The Federal Administrative Court has made it clear that a doctor's certificate that merely states that the examinee is unable to take examinations is not sufficient to determine whether the term 'Prüfungsunfähigkeit' applies. It is not the responsibility of the doctor to determine whether the term applies. 'Prüfungsunfähigkeit' is a legal concept and whether or not the requirements to use this term are fulfilled is a legal matter that is to be decided upon by the administrative jurisdiction of the board of examiners (or, in the case of a dispute, a court) on the basis of the clearly described results of a medical examination conducted by an expert.*

In accordance with the explanations provided above, doctors' certificates will only be accepted by the responsible boards of examiners if they contain at least the following information:

- Exact description of the physical and/or mental disorders (**symptoms**)
- Effects of these health impairments on the examination
- Date of the medical examination on the basis of which the doctor's certificate was issued
- Date on which the illness began and prognosis on the duration of the illness

It is not sufficient for the certificate to merely state that the student is unable to take examinations or unable to work. A certificate confirming inability to work (*Arbeitsunfähigkeitsbescheinigung*; yellow A6 note) is not a doctor's certificate.

The exact disease (**diagnosis**) does not have to be stated; however, it is advisable for the exact disease to be stated as this alone often makes it clear that the student is unable to take examinations (e.g. influenza).

The doctor should note on the certificate whether the student is unable to take examinations from a medical point of view.

According to the established case law of the Federal Administrative Court, an illness only results in inability to take examinations if it is not simply a psychological reaction to the examination process (**examination nerves**) and it is not a permanent disorder (e.g. a chronic, irreversible illness). Examination nerves are a specific type of stress that all candidates are subject to due to the nature of an examination situation to a greater or lesser extent and students are therefore expected to deal with them (judgment passed by the Federal Administrative Court on July 6, 1979, file no. VII C 26.76).

**Permanent disorders** are also not considered a valid reason to withdraw due to an inability to take examinations. Permanent disorders are personal characteristics that permanently influence an examinee's performance and do not result in a false impression of their ability to perform. They are therefore significant when assessing ability through examinations (ruling delivered by the Federal Administrative Court on December 13, 1985, file no. 7 B 210/85). In cases in which examination

nerves cannot be ruled out or a permanent disorder may come into question, a statement must be made on whether these are the causes of symptoms in the doctor's certificate.

### 3. Additional information

Due to their **obligation to cooperate in examination procedures**, examinees must ensure that their doctor fulfills the minimum requirements when writing the doctor's certificate (having released the doctor from his or her obligation to maintain confidentiality). If the doctor's certificate that is presented does not contain the required information and it is therefore not possible to determine whether the examinee was unable to take examinations, this will have negative consequences for the examinee. The affected examination will be considered to have been taken and will be evaluated as failed.

If there are **valid reasons** for doing so, the examining bodies may require an examinee to submit a **doctor's certificate from an official medical examiner [amtsärztliches Attest]**, even if this possibility is not explicitly provided for in the examination regulations. A valid reason may be, for example, that the examinee has already withdrawn from the same examination for health reasons on several occasions.

All letters, applications, and doctors' certificates must be submitted to the Examinations Office. Examinees are responsible for ensuring that they obtain proof that the documents were received (registered mail with receipt, confirmation of receipt from the office). If examinees inform the Examinations Office of their withdrawal via telephone, they must still ensure that their written declaration is received on time. Examinees must also inform the examiner of their withdrawal (by telephone or e-mail).

### 4. Legal consequences of withdrawing from an examination

If examinees are permitted to withdraw, they are considered not to have taken the examination. They may take the examination on the next date that it is offered.

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