

Please note that this English version of RSPO regulations is nothing more than an aid to orientation. Solely the German version is legally binding.

V B / RA I, 19/06/2015

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## Handout regarding RSPO

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## 1 Background

As of 1 October 2015 the RSPO regulations regarding limits to repetition of examinations came into force. This resulted in the situation that in bachelor's and master's degree programs, students

- were definitively unable to pass a module exam after a final repeat attempt (see § 20 par. 3 phrase 4 RSPO)
- and therefore under certain circumstances the overall exam for the degree program was not passed, namely when the relevant module was absolutely necessary for completing the course of studies (see § 20 paragraph 3 clause 5 RSPO).

This handout supplements the existing RSPO handout regarding the topics of "Crediting, registration / binding examination date and final grade calculation" from 21 November 2013 covering important notes for preparation, execution, and follow-up of examinations and options to repeat these in order to avoid procedural errors in this context.

## 2 Crediting exam performances, duty of disclosure for not crediting

§ 7 paragraph 1 RSPO rules, in conjunction with § 31 paragraph 1 clause 3 BerlHG:

*"Performances in degree programs at a university or legally equivalent institution of higher education are credited provided that there are no major differences arising from such."*

The crediting of performances *"in degree programs from a university or a legally equivalent institution of higher education"* must only be rejected in case of **major** differences. The importance of differences is, according to this wording and the version set out by the Accreditation Council,<sup>1</sup> to be established and demonstrated by the relevant examining board, i.e. there is a duty to clearly justify cases of non-recognition. The major factor is the qualification objective of the module, modules, or the study area. If evidence of major differences cannot be provided by the relevant examining board, then the performances should be recognized.

Exams in other universities that were not graded separately (graded as "passed") are credited as per § 7 paragraph 4 clause 2 RSPO with the note "passed".

Any decision regarding the crediting of exam performances is the responsibility of the Examining Board (see § 6 paragraph 1 clause 2 RSPO). Expert representatives can issue recommendations, but do not make any decisions.

## 3 Registration as of the examination date

The RSPO means that registration for a module and for courses also simultaneously means registration for the module exam provided that the module features one as in the majority of cases. Registration to a specific examination date is not provided for in the RSPO. An examination date is set by the examining board and then made known in an appropriate manner. Notification of the examination date must take place such that the affected students are aware of it in good time. Notification of the examination date should also state whether it is binding or not. In the case of binding examination dates, it is also necessary to state the point at which it is possible to withdraw without stating a reason.

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<sup>1</sup> The statement of the Accreditation Council from 3 July 2012 covered the notion of a "reverse onus". The focus is no longer on "equivalence", and more on the materiality of differences. This provides greater leeway in crediting compared to before. Crediting performances at other universities and the associated skills is generally the case as set out in the Lisbon Convention.

If the student has been informed of the notification procedure - such as in the first course within a module - then they should regularly check at the relevant location (e.g. a note on the notice board of the examinations office) whether the relevant notices can be found there at that point in time. This also applies to announcements on the Faculty website or similar. Oral notifications can certainly be useful and expedient in many cases, but should only be used in addition to a textual notification.

#### **4. Binding examination dates**

##### **4.1 Decision made by the examining board**

The decision on whether examination dates are binding or not binding is made either by the examining board itself, or after delegation as per § 6 paragraph 4 clause 2 RSPO, by the chairperson of the examining board, and can be either for all or individual modular exams in one or several degree programs or modules, as well as being for one or several semesters, or even open-ended.<sup>2</sup>

Examining boards can also revise this decision or start anew if experience shows that this would be expedient. It is necessary that such changes take place only at the beginning of the semester so that such information is handled more easily within campus management.

##### **4.2 No decision by the examining board**

If no decision was made by the examining board whether the examination dates are binding or not binding, then all examination dates they were responsible for are considered to be not binding.

##### **4.3 “Imported” modules**

If modules are “imported” from another set of examination regulations (i.e. the examination regulations refer to specific modules from other regulations) then these are imported including the stipulation of “binding examination date” / “non-binding examination date” (no decision from the examining board means it is a “non-binding examination date”) along with the conditions for repeating exams. In the area of ABV there is still the aspect that there is no central examining board for the ABV, but that as per § 2 of the ABV examination regulations the examining board of the “imported” bachelor degree program is responsible for determining binding examination dates. With regard to clarity for those involved (students, examiners, examinations offices) as well as its portrayal in Campus Management, it is necessary that the relevant examinations offices agree on whether the modules within the ABV are either binding or not binding. Also applicable is: If no decision has been made then the examination dates are not binding.

##### **4.4 Special rules for suspended and exmatriculated students**

§ 30 paragraph 6 BerlHG rules that the entitlement to an examination is generally in place after exmatriculation. As there is no examination duty for exmatriculated students or students no longer matriculated in a degree program or a module offering 60 credit points, all examination dates in modules that are part of a degree program or a module offering 60 degree points in which they are no longer matriculated are considered to be “non-binding”. The same applies for a student who is no longer registered in a module offering 30 credit points. Furthermore, the same applies for suspended students who have a right to completion of examinations as per § 14 paragraph 3 clause 2 in the Bylaws on Academic Matters at Freie Universität Berlin who also have no examination duty. Non-appearance at an examination date also does not, for the aforementioned group of people (such as exmatriculated or suspended students, or students no longer matriculated or registered in a degree program or course offering), lead to failure of the examination.

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<sup>2</sup> For example, an examining board could decide that instantly all examination dates in all degree programs for which the examining board is responsible are binding, and that the deadline in which the student can withdraw without stating reasons is fixed at two weeks.

## **5 Withdrawal options for binding examination dates**

### **5.1 Establishing a deadline for withdrawal from a binding examination date**

The examining board must set up a deadline for every examination date (or as per delegation in line with § 6 paragraph 4 clause 2 RSPO the chairperson or the chairperson of the examining board) by which the student can withdraw from the examination without stating reasons. This deadline should end two weeks before the examination date at the earliest (§ 8 paragraph 1 clause 5 RSPO) and must be announced together with the examination date (example: If the examination takes place on February 20, then the withdrawal period should end on February 6 at the earliest). The examining board can also set a later limit for the deadline - up until directly before the examination at the very latest. If the examining board does not set out a withdrawal period when establishing binding examination dates, then these examination dates will be considered to be not binding.

### **5.2 Withdrawal from a binding examination date without statement of a reason**

Until the withdrawal deadline as per § 8 paragraph 1 clause 5 RSPO has elapsed, students can withdraw from an examination without stating a reason. The examination attempt is considered to be defaulted and is not graded.

### **5.3 Withdrawal from a binding examination date for a valid reason**

After the withdrawal deadline has elapsed as per § 8 paragraph 1 clause 5 RSPO it is still possible to withdraw as per § 19 paragraph 1 RSPO if a valid reason is provided.<sup>3</sup> In particular, the following reasons are considered valid, provided that it can be verified:

- Illness, if it justifies an inability to take part in the examination. In case of the student being ill, or a close relative that can only be cared for by the student being ill as per § 11 paragraph 2, a medical certificate should be obtained. Use of a “certificate of incapacity” as is the case for employees is not sufficient.
- Unacceptable external conditions (e.g. noise, cold);
- Death of a close relative in line with § 11 par. 2 RSPO;

The candidate should immediately<sup>4</sup> and clearly explain the good reason for withdrawal and provide the necessary evidence. The examining board makes the final decision regarding withdrawal and this information should be kept on file with all relevant documentation. If withdrawal is, for example, stated to an examiner then this examiner must inform the examining board (via the examinations office if necessary) and pass on all documentation to them. The examiner is not entitled to make the decision regarding withdrawal.

Participants should be asked before the start of the examination whether they consider themselves fit to take the examination.

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<sup>3</sup> The same also applies after an examination starts. In the case of coursework, the examination starts when the topic is issued.

<sup>4</sup> In this context “urgently” means without culpable delay. As the responsibility for contribution ends at the edge of what is considered reasonable, a declaration of withdrawal is only no longer immediate if it does not take place at the earliest point in time at which could be reasonably expected from the candidate.

#### **5.4 Revocation of a withdrawal from a binding examination deadline that took place in good time before the start of the examination (“withdrawing from the withdrawal”)**

If a student has withdrawn within the period before a binding examination date before the examination has started without stating reasons, then the Examining Board can individually or generally decide as per § 8 paragraph 1 clause 6 that the student is authorized to revoke withdrawal; such revocation means that the student is automatically registered for this examination date once again.

#### **5.5 Elimination of the reason not to take part in the binding examination before the start of the examination**

If a student has submitted a medical certificate to the Examining Board which was accepted as a reason for an inability to take part in the examination and therefore withdrawn from the binding examination date, but then wishes to take part in the examination, the student must state in writing that the reason for such inability to take part is no longer valid and that they believe they are ready to complete the examination.

### **6 Failed**

#### **6.1 General**

After a failed examination, the student will be assigned to the next possible examination date by the examining board. This means that the cycle of “notification of examination date” and “examination” starts once again.

#### **6.2 After “failure” in the penultimate attempt**

As per § 5 paragraph 3 RSPO students should, after a failed penultimate attempt in an examination, be suitably informed as per § 20 paragraph 3 of the advisory services (course advisory service and general student advice from the center for Academic Advising and Psychological Counseling) that are available. This can, for example, take place via email.

#### **6.3 “Failure” in the last attempt and a failed general examination**

If the examination was graded as “failed” in the last possible attempt, and failure in the examination means that it is no longer possible for the degree program to be successfully completed in line with the requirements of the relevant examination regulations, then the overall examination has also been failed as a result of the failure of the failed module exam, and the course can no longer be continued. This should be made clear to the student not just via an entry in Campus management, but also via an administrative act or a decision from the examining board regarding the failed overall examination. It is strongly recommended for reasons of legal certainty that the notification is delivered via a postal writ of summons, as the exact date of delivery can then be proven in case legal action is taken. Delivery of the notification is the start of the period within which the student can request to inspect the examination files. If the result is only made known via Campus Management, then it is not known, or at least not documented in a legally secure manner when the student was informed of this.

Only when the decision<sup>5</sup> regarding the failed overall examination and in case of a legal dispute when the final dispute is legally binding, does the examining board provide a statement from the examining board to the Student Records and Registration Office, which also states subsequent exmatriculation from this degree program in a file for the student as a result of the failed overall examination.

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<sup>5</sup> In the formal sense, validity means no ability to appeal, so that the administrative decision cannot be challenged with regular legal remedies of review and appeal. The point at which this occurs largely depends on the question of whether the administrative act was issued with information on legal remedies as per § 37 paragraph 6 Administrative Procedure Act in connection with § 3 of the Berlin Administrative Procedure Act: With information on legal remedies, the deadline is one month, see §§ 74 paragraph 1, 70 paragraph 1 Law on Administrative Court Proceedings (VwGO); without such information, the deadline is one year, see § 58 paragraph 2 VwGO.

Until the decision is finally valid regarding the failed overall exam, the student should continue to take examinations and participate in the course but with reservations. If the decision has not been made regarding the failed overall exam, then these services are considered to have not been performed. However, if the decision is successfully contested then the reservation is baseless and the services provided with reservation are considered to be completed.

## **7 Cheating and non-appearance**

### **7.1 Attempted cheating**

If there is a suspicion of attempted cheating then the authorized examiner should document this in the examination protocol and include evidence (such as aids that are not permitted) if necessary. After inclusion of the evidence, the candidate should be permitted (undisturbed, if possible) to continue with the examination. If there is evidence of attempted cheating then the examination grade is recorded as “insufficient” (5.0) (grading or separate evaluation) or “failed” (not evaluated separately). The examining board can also decide that participation in courses is either wholly or partially repeated. In serious cases that would justify revocation of a degree, the examining board can stipulate that the entire examination has been definitively failed. If the examining board decides that there was no attempt at cheating (such as because the aid that was taken was indeed permitted) then the examination performance is graded if the candidate was not disadvantaged in any way, otherwise the examination is considered not to have taken place and the attempt is not counted.

### **7.2 Students that do not appear**

In the case of non-binding examination dates non-appearance is tantamount to effective withdrawal as it is not sanctioned.

On the other hand, in the case of binding examination dates non-appearance is graded as “failed” - this depends on whether the grade is “insufficient” (5.0) (grading or differentiated grading) or “failed” (not evaluated separately). However, as it is not always absolutely clear at the time of the examination whether the withdrawal is justified, the examiners merely inform the examinations office that a candidate has not appeared. This information is then processed by the examinations office as soon as the circumstances are clarified - the “not appeared” record is either supplemented with “insufficient” (5.0) or “failed”, or a “justified withdrawal” has taken place.

## **8 Restriction of repeat attempts**

As per § 20 paragraph 3 RSPO failed examinations (with the exception of the thesis in a bachelor's or master's degree program or in another modularized degree program, including an oral examination part if necessary) can be repeated three times unless the relevant examination regulations establish that it is possible only to repeat it twice.<sup>6</sup> As per § 24 paragraph 4 RSPO failed examination attempts carried out before 1 October 2015 do not count towards the number of repeat attempts as per § 20 paragraph 3 RSPO. The decisive aspect here is the date on which the examination took place.

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<sup>6</sup> Note: “Attempts” are counted instead of “repeat attempts” within CM, so the value is always “1” higher.

If modules are “imported” from another set of examination regulations (i.e. the examination regulations refer to specific modules from other regulations) then these are imported along with the conditions for repeating exams. Differing regulations may lead to an impractical and unmanageable situation.

## **9 Improving a grade**

As per § 20 par. 5 phrase 1 RSPO, repetition of a passed examination is not permitted. § 20 paragraph 5 clause 2 RSPO does, however, provide the option in that the relevant examination regulations may permit such an improvement in a grade that an examination passed on the first attempt<sup>7</sup> may be repeated. In these cases, the better of the two grades counts as the module grade<sup>8</sup>.

## **10 Calculating the grade point average**

As per § 18 paragraph 3 clause 8 RSPO, the RSPO does not just allow for a cut in the case of designation (such as in § 13 paragraph 8 clause 3 SfAP), but also when calculating the grade point average or another combined grade. Such rounding off<sup>9</sup> takes place as follows: Only the first digit after the decimal point is taken into account, all further digits are simply discarded without rounding off.

A summarized grade for several examinations in the context of § 18 paragraph 3 clause 6 RSPO is, for example, the combined grade for a core subject, a module offering, or an advanced module. The grade for a thesis is also included amongst these as these often consist of a written part and an oral part. For the sake of standardization, the grades for theses are generally understood as being a summarized grade. Consequently, the grade for the thesis, which only consists of a written project, is treated as a summarized grade.

The summarized grades to be shown on the Report of Grades are rounded as above as per § 18 paragraph 3 clause 8 RSPO. These rounded grades are the basis for determining the grade point average.

Depending on the set-up of the degree program, this may lead to the rounding off of the grade point average to one<sup>10</sup> or two<sup>11</sup> levels. Rounding off takes place two or three times until the grade point average is determined.

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<sup>7</sup> It is possible to stipulate in examination regulations that this option for improving grades is offered either for all modules or just individual modules on the degree program.

<sup>8</sup> Note: Improving grades is not currently supported in CM. In such cases, the grade must only be recorded when the second examination date has taken place and it is clear which grade shall be used. Only this grade is entered.

<sup>9</sup> This form of rounding off is known as “trimming”.

<sup>10</sup> Examples of rounding off at one level: a) summarized grade for a module offering 60/30 CP; b) summarized grade for a related area.

<sup>11</sup> Examples for rounding off at two levels: a) summarized grades for several advanced areas within the summarized grade for the core subject; b) the summarized grade for the bachelor’s thesis within the summarized grade for the core subject.

**Annex: Overview**

**(Regarding registration and binding / non-binding examination dates):**

	Examination date	
	binding	non-binding
<i>Stipulation that an examination date is binding</i>	by the examining board  or  – after corresponding delegation – by the chairperson of the examining board	This stipulation is not necessary here, or is omitted.
<i>Registration for first possible attempt</i>	via module registration	via module registration
<p><i>Registration for further attempts:</i></p> <p><i>a) after withdrawal in line with the deadline (without stating reasons) before the exam as per § 8 paragraph 1 clause 4 RSPO</i></p> <p><i>b) after withdrawal with a valid reason (e.g. illness) as per § 19 par. 1 RSPO</i></p> <p><i>or</i></p> <p><i>c) after the exam is failed, or not appearing at the exam</i></p>	<p>regarding a):</p> <p>(1) If the examining board makes a decision regarding further proceedings: Only after the conditions have been satisfied, the students are then registered for the next examination without the student being at fault</p> <p>or</p> <p>(2) if no decision has been made by the examining board: without the student being at fault</p> <p>regarding b): without the student being at fault</p> <p>regarding c): without the student being at fault</p>	<p>regarding a):</p> <p>This case does not apply here, as in the case of non-binding examination dates there is no deadline-related withdrawal before the examination date in the context of § 8 paragraph 1 clause 4 RSPO</p> <p>regarding b): without the student being at fault</p> <p>regarding c): without the student being at fault</p>