

SORA (UNSUITABILITY TO STUDY) POLICY

THE SORA LEGISLATION AND SOLUTIONS FOR UNSUITABILITY TO STUDY

SATAKUNTA UNIVERSITY OF APPLIED SCIENCES

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1. The purpose of the policy

The policy has been drawn up to implement the statutes of SORA legislation that came into effect on 1 January 2012. The policy is applied to all the students at Satakunta University of Applied Sciences (SAMK) studying for a degree in the fields of Health Care and Social Services and Maritime Management. The fields in question have requirements concerning the safety of minors, patient or customer safety and traffic safety, which restrict student admission. The prerequisite is that a student admitted has such a state of health and functional capacity that he/she is capable of the practical tasks or practical training belonging to studies. Read more on in Finnish: ammattikorkeakouluun.fi

2. Provisions and regulations regulating the directive

- University of Applied Sciences Act (14 November 2014/932)
- Universities of Applied Sciences Decree (18 December 2014/1129)
- Act on Students' Legal Rights Protection Committee (L956/2011)
- Act amending section 6 of the Criminal Records Act (955/2011)

3. Drug and alcohol testing

The student's drug abuse is dealt with according to the instructions drawn up at SAMK. If SAMK personnel have justifiable grounds to suspect that the student is under the influence of drugs while carrying out practical tasks or practical training relating to studies, and thus it is necessary to test the student to find out his/her functional capacity, SAMK can oblige the student to undergo a drug test performed by a registered healthcare professional.

Testing is carried out when the student performs tasks that require special acuity, reliability, independent judgement or good reactions, and where working under the influence of drugs or being addicted to drugs:

- 1) seriously endangers the student's or some other person's life or health;
- 2) seriously endangers traffic safety;
- 3) seriously endangers the protection or integrity of data protected by confidentiality provisions; or
- 4) significantly increases the risk of illicit trafficking, possession, use, or distribution of substances referred to in the Narcotics Act (373/2008) section 3, subsection 1, points 5 or 6, or medicinal preparations referred to in the Medicines Act (395/1987) section 4, or medicaments referred to in the mentioned act section 5, which are in the possession of the university of applied sciences, the education provider or the place of training.

(Act on Universities of Applied Sciences 2014/932)

4. Revocation of the right to study

The student's right to study may be revoked if a student is unsuitable for the field, does not fulfill the prerequisites for admission in regard of his/her state of health or functional capacity, has an earlier decision of the revocation of the right to study, or has been sentenced to a punishment.

The right to study is revoked as a last-resort action.

4.1 Based on unsuitability

“The student has repeatedly or seriously endangered the health or safety of another person in practical assignments or practical training related to studies” (Ministry of Education and Culture 2010/7)

Endangering may be caused e.g. by the negligence or erroneous procedure or action of the student, which is not improved despite the notices given. Especially serious endangering takes place when the student breaches the safety procedures in practical training. A single action of negligence does not yet fulfill the conditions for revocation as regards unsuitability.

The justification is applied to students who have started their studies after 31 December 2011.

4.2 Revocation of the right to study based on the state of health or functional capacity

“ it is discovered during the education that the student has an illness, disability or other matter concerning the state of health that deteriorates the functioning capacity significantly and which endangers the health or safety of another person in studies or practical training belonging to studies” (Ministry of Education and Culture 2010/7).

It is possibly to revoke the right to study based on the health and functional capacity in situations, where the student would not have been admitted as a student, if the issue connected to his/her state of health had been known already during the application stage. These kind of situations can arise e.g. when a student conceals information related to his/her state of health or functional capacity. Universities of applied sciences have defined the field-specific requirements for the state of health in SORA degrees. The requirements have been compiled on site: ammattikorkeakouluun.fi (Only in Finnish)

Revoking the right to study is also possible when the student's state of health or functional capacity has changed during the studies to such an extent that the prerequisites for admission are not fulfilled anymore. An example of such a situation is a student falling so seriously ill that his/her state of health or functional capacity are not expected to improve. (Ministry of Social Affairs and Health 2020, 61; Ministry of Social Affairs and Health, 29).

The right to study can also be revoked if there are serious issues affecting the student's physical or psychological functional capacity, which prevent success in practical duties or in practical training. These do not refer to mental health problems, which when treated do not form an obstacle for admission as a student and participation in education.

The student is provided the necessary services and measures of support, if he/she falls seriously ill during the studies or if other health-related matters deteriorating the ability to study arise. The student needs to be given a clear message that the matter is taken seriously and he/she is being cared for. Student counsellor or teacher tutor have follow-up discussions with the student and consider solutions together on how to progress the studies (PSP, support vouchers, teaching arrangements etc.). Student healthcare supports the student by following and promoting the student's health, wellbeing and ability to study by making regular health examinations to meet individual needs (1326/2010, Government Decree 338/2011; Ministry of Social Affairs and Health, 64).

Before the right to study is revoked, the university of applied sciences must explore together with the student if the obstacles to studying can be removed or if it is possible to direct the student to another field of education. With the student's permission, the student can be directed to such other education of the university of applied sciences, where he/she fulfills the prerequisites for admission (University of Applied Sciences Act 2014/33§; Ministry of Social Affairs and Health, 60).

If a student has such factors related to his/her state of health or functional capacity that can be regarded as justified grounds for the revocation of the right to study, the university of applied sciences can order the student to be examined by registered healthcare personnel, where necessary, to ascertain the student's state of health and functional capacity. The primary performer and coordinator of the examinations is student health care. The examinations focus especially on evaluating whether the degree-specific requirements for the state of health are fulfilled. The basis for the evaluation is formed by organizing a joint negotiation, where both the student and the educational institution have a possibility to bring forward the challenges and claims related to studies. SAMK is responsible for the examinations and inspections it has ordered and shall defray the costs caused. (Ministry of Social Affairs and Health 2015, 30; Ministry of Social Affairs and Health 2020, 61.)

4.3 Revocation of the right to study based on criminal record extract

"The student obtains an extract of his/her criminal record in order to be able to perform duties related to studies or on-the-job training related to studies or practical training, which substantially require working with minors, and where the extract must be provided upon request to education organizer or higher education institution according to Vocational Education and Training Act 630/1998, Vocational Adult Education Act (631/1998), Universities of Applied Sciences Act (351/2003) or Universities Act (558/2009)." (Act amending section 6 of the Criminal Records Act 955/2011).

Before starting the practical training belonging to studies in the education fields of Social Services and Health, it must be ensured that the student whose practical training involves working with minors, presents a valid extract of his/her criminal record. The student orders the extract from Legal Register Centre, and the extract is valid for six months. SAMK does not collect or file the extracts of criminal records but the student him/herself will have them. The extract is presented to the teacher supervising practical training, not to the representative of practical training organization. If a student refuses to present an extract of the criminal record, his/her right to study may be revoked until he/she agrees to provide the extract to be seen. A criminal conviction does not automatically signify revocation of the right to study but the matter will always be considered case-by-case. The revocation of the right to study based on a criminal conviction is affected by the field of education, the crime committed, the time of the crime and the length of the sentence.

4.4 based on an earlier revocation decision

"The student has concealed a decision to revoke the right to study referred to in section 20 a subsection 2 when applying to study, which could have prevented his/her admission as a student. "Provisions of confidentiality notwithstanding, the university of applied sciences has the right to obtain information necessary for admission from another university of applied sciences concerning any pending process related to revocation of the right to study referred to

in section 25 a, when the student has applied to the university of applied sciences as a transfer student. (Ministry of Education and Culture 2010/7.)

If the student has concealed already at the application stage the information of the decision to revoke the right to study which would have prevented him/her to be selected as a student, the revocation of the right to study is possible. SAMK has the right to obtain information from another university of applied sciences about the decision, including its justifications, to revoke the right to study where it is deemed necessary. The criterion is only applied to those who have started their studies after 31 December 2011.

5. SORA Working Group

The SORA Working Group includes the Dean, Vice President for Education, Head of Student Services, Student Counsellor, Teacher Tutor, representative of the Student Union Sammakko and Student Health Nurse. Other experts, e.g. a doctor, may be consulted by the SORA Working Group if necessary. The working group is appointed by the President of SAMK.

6. The revocation process of the right to study

The body set up by SAMK decides upon the revocation of the right to study (cf. Ministry of Education and Culture 2020. 31-32).

1. Before revocation measures are taken, all the means how the student has been helped are surveyed together with the student. For example if practical training periods are interrupted, their reasons, measures taken and discussions are documented thoroughly, e.g. the dates and who have participated in discussions. The documents are signed to avoid ambiguity. The memorandums are forwarded to the Dean of the Faculty. The student's ability to study is supported at all the stages of the process also by student health care.
2. If the support measures planned together do not help or the student refuses the offered support measures, the process to revoke the right to study will be initiated. The student must be clearly informed about the progress of the process and what will happen if he/she agrees or refuses to participate in the dealing with the matter. Hence, a hearing is held and the student and a trustee of his/her choice are invited to the hearing. If the student does not show up in the hearing, another hearing will be organized within two weeks. The student can participate in the hearing also online. If the student fails to participate also in the second hearing, the revocation process can be advanced without hearing the student.
3. The student and the trustee of his/her choice are invited to the hearing with SORA working group. In the discussion, SAMK can ask the student, in so deciding, to provide a study ability evaluation where his/her suitability to the field is evaluated as a part of the reinstatement of the right to study process. In the first place, the student is guided to his/her own student health care. The study ability evaluation is requested within a month since the meeting.
 - a. N.B. If a study ability evaluation is requested already before starting the studies (at the application stage), it is taken care of by the applicant's own municipal health care.

- b. The medical certificate shows a written evaluation based on the inspection or examination whether the student fulfills the prerequisites of admission as regards the student's state of health and functional capacity: suitable, suitable with restrictions, not suitable.
- c. If the student refuses a medical examination, the student may be reserved the right to study until he/she agrees to take the necessary examinations and inspections within a month.
4. Irrespective of the medical certificate, the SORA working group has a joint negotiation with the student. The working group consults other experts when necessary (e.g. if it is a case of illness or there are substance abuse issues). The student must have an opportunity to validate his/her own viewpoint also after the medical certificate has been given. The student must be heard before the decision to revoke the right to study. The Dean of the Faculty organizes the hearing in question. The invitation to hearing and decision to launch the revocation process will be personally forwarded to the student in writing
5. or a registered letter. The student has the right to invite to the hearing e.g. the doctor in charge of the case or other support person. The student has also the right, at his/her own expense, to use a legal advisor to support him/her (See chart 1. Revocation of the Right to Study)
6. After the joint negotiation, the SORA working group submits a proposition of the revocation of the right to study to the President of SAMK, who in turn presents the matter to the Board of SAMK to decide.
7. The Dean of the Faculty of Social Services and Health Care reports the start of the revocation of the right to study to Valvira (National Supervisory Authority for Welfare and Health).
8. Before revoking the right to study, the university of applied sciences, together with the student, Admissions Office and student counsellor explore the student's possibilities to transfer to some other education in the university of applied sciences. With the student's consent, the student may be transferred to other studies in the university of applied sciences where he/she fulfills the admission prerequisites. A written decision of the transfer of the student to other education is made, and simultaneously a waiver of the right to study is registered.

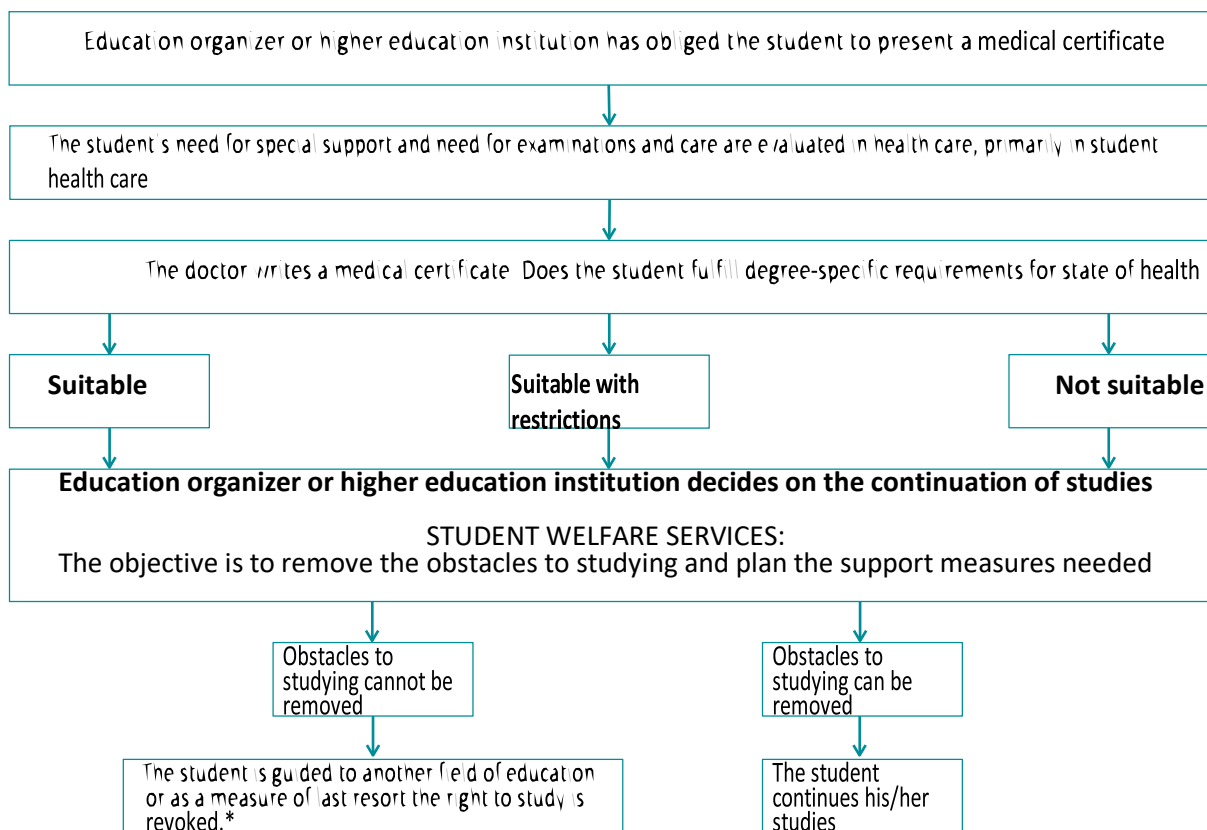
The functioning of the SORA working group is documented:

- reasons for launching the process
- situation picture of each stage of the process
- the student's account and view of the situation
- hearing of experts
- all the measures taken during the process, e.g. counselling and support measures offered
- justified decisions of the different stages during the progress
- approval of the examined document by signatures from all participants

The memorandums of the SORA working group are saved and retained taking into account the archiving and confidentiality provisions of SAMK.

Appeal against the decision to revoke the right to study can be lodged from the Students' Legal Rights Committee within 14 days of the receipt of the decision and thereafter if necessary from Helsinki Administrative Court. Suspension of the student's right to study can be implemented despite the appeal lodged, unless otherwise ordained by the Administrative Court.

Chart/Figure 1. Revocation of the Right to Study



*If the student's right to study is revoked because of health reasons, student health care must take care of possible planning of follow-up care especially if the student's treatment relationship ends when the right to study is withdrawn. (Ministry of Education and Culture 2020, 62.)

7. Reinstatement of the right to study

The student has a possibility to apply to the Board of SAMK for the reinstatement of the right to study, if the right to study has been revoked because of an issue related to his/her state of health or functional capacity. For this purpose, the student applying for the right to study must present that the reasons for revoking the right to study have been eliminated. There is no deadline for applying for the reinstatement of the right to study.

The application for the reinstatement of the right to study and certificates regarding the state of health are submitted to Head of Student Services, who submits the application to the SORA working group to handle. The person applying for the revocation of the right to study is entitled to be heard, and the SORA working group can also hear a representative for the education, a doctor, a public health nurse and other experts deemed necessary when making the decision. The SORA working group submits a proposition to the President of SAMK, who in turn presents the matter to the Board of SAMK to decide.

Appeal against the decision to reinstate the right to study can be lodged from the national Students' Legal Rights Committee. SAMK must report the decision to Valvira (National Supervisory Authority for

Welfare and Health) with justified arguments related to the reinstatement of the right to study in the fields belonging to its sector.

8. Handling of sensitive information

Information relating to an applicant's and a student's state of health, referred to in Universities of Applied Sciences Act (2014/932) sections 27 and 34 – 37, may be handled only by those who prepare or make decisions on admission, revocation or reinstatement of the right to study, or on disciplinary action or by those who issue statements on these matters. Those who prepare or make decisions on the revocation of the right to study may handle information on the student in the criminal register about matters referred to in section 33 subsection 2.

SAMK has defined the tasks, which involve handling of sensitive information:

<https://www.samk.fi/en/about-samk-2/information-security/>

SAMK stores the sensitive information separately from other personal data. The sensitive data is removed from the register immediately when there no longer is any statutory reason to store them and at the latest within four years of the date on which they were entered in the register (see Universities of Applied Sciences Act 2014/932).

9. Right to obtain information

It must be ensured that the student's legal protection is realized in all the proposals presented by the working group. The members of the working group and experts participating in meetings are under the obligation of confidentiality.

According to Universities of Applied Sciences Act (2014/932) provisions on confidentiality notwithstanding, such information on a SAMK student's state of health and functional capacity as is necessary for the execution of duties may be supplied by the holder of this information as follows to:

- 1) the president of the university of applied sciences and those responsible for the security of the university of applied sciences for the purpose of ensuring the safety to pursue studies;
- 2) a person responsible for study counselling for the purpose of guiding the student to other studies or support services;
- 3) a person responsible for student healthcare for the purpose of ensuring the student's health and safety and guiding the student to necessary support measures;
- 4) a person responsible for practical training for the purpose of ensuring the safety of the student and the safety of staff and the customers at the place of training;
- 5) the police and a representative of the university of applied sciences who is primarily responsible for investigating threats to security for the purpose of assessing if there is an immediate threat to safety or if the student's state of health is assessed to endanger the safety of others involved.

SOURCES

University of Applied Sciences' common website ammattikorkeakouluun.fi

Universities of Applied Sciences Act 2014. Universities of Applied Sciences Act 14 November 2014/932 www.finlex.fi Taken on 23 June 2020

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