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The start of Studies

How do you get a good start to your studies?

Being a Minor and intending to start a University Study

Since the suspension of compulsory military service and the introduction of G8 in many federal states, every year more young people acquire a university entrance qualification without being of legal age. Although many of them take a gap year, the number of underage students is increasing every year. This represents a major challenge not only for the underage students and their parents, but also for the higher education institutions: in many cases, they are not yet at all prepared for having numerous students who are not yet fully legally entitled or capable of legal actions. However, some federal states already address underage students in their state higher education laws.

What is a minor student allowed to do?

The answer to this question can basically be found in the German Civil Code (BGB), which contains regulations on legal capacity. According to that, anyone who has reached the age of 18 has full legal capacity. Minors over the age of seven have limited legal capacity.

Most legal transactions concluded by persons with limited legal capacity are void if they are not concluded with the consent of the legal representative (usually the parents). However, the parents can also consent to the legal transaction retrospectively, meaning they can approve it backdated.

The consent of the parents to a specific declaration of intent by the minor can also be replaced by a general consent.



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Minors who have been authorised by their parents to enter into a service or employment relationship are even considered to have full legal capacity as far as the establishment, termination or performance of such a relationship is concerned. Studies or professional trainings are not subject to this regulation.

If the minor closes a contract and effects the contractual performance with funds that have been left to him for this purpose or at his free disposal by the representative or with his consent by a third party, the contract is also valid without the participation of the parents. By making the money available to the minor, the parents are already granting him the general consent mentioned above. This can be used, for example, to buy books from the maintenance of the parents or to pay for living expenses that are paid in cash. However, instalment transactions (often the case when buying a mobile phone), rent payments, etc. are not included.

The vast majority of German higher education institutions are not private, but state-run - they are usually funded by the federal states. Under public law, in most cases, someone who is legally competent according to civil law has the capacity to act - the regulations of the German Civil Code (BGB) have therefore an impact on public law. In special cases, however, someone with limited capacity to act under civil law may also be capable of acting, in the given fact that he or she is recognised as capable of acting for the subject matter of the proceedings by provisions of civil law (e.g. via section 113 of the Civil Code) or by provisions of public law.

Supplementary regulations for the protection of minors can be found, for example, in the Youth Protection Act (e.g. the provision that minors without parental guidance may only party until midnight) or in the Youth Employment Protection Act.



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The situation in the single federal states

Higher education law is a federalstate law, so each federal state has its own state higher education law (or in the case of Saarland, even several) that regulates the organisation of higher education institutions and basic aspects of the studies. At present, 14 federal states do not make any special regulations that make it easier for minors to study. This means that underage students in these federal states are not capable of acting and, in principle, representation by parents is required for every legal act.

However, with Baden-Württemberg and North Rhine-Westphalia, two federal states have introduced special regulations for underage students that make them capable of acting towards the university.

The State Higher Education Act of North Rhine-Westphalia stipulates that parents must represent the future student who has not yet reached the age of 18 at the time of enrolment. Upon enrolment, however, minors acquire the authority to perform all administrative acts within the scope of their studies without the need for representation.

Baden-Württemberg even goes one step further: here, minors are capable of acting for all procedural acts concerning the admission, implementation and termination of a course of study. In Baden-Württemberg, minors can therefore even enroll at a university without the involvement of their parents.

In North Rhine-Westphalia and Baden-Württemberg, however, the above-mentioned general principle also applies: underage students are only able to act towards the university. A flat still has to be rented by the parents, and even in Cologne or Freiburg, partying ends at midnight without a parent or guardian accompanying the student.



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Consequently, strictly speaking, every legally relevant action of a minor student towards his or her university, such as registering for or deregistering from examinations, exercising the right to vote at university, standing as a candidate in university elections or using the libraries, must be carried out by the parents on behalf of their child. In order to bypass this practically almost unmanageable effort, most universities in the other federal states manage this situation by requesting a general consent from the parents at the beginning of the course of study - this allows the minor to perform individual actions independently, such as registering for an examination himself.

How is the situation to be assessed?

If you are a minor studying in Baden-Württemberg or North Rhine-Westphalia, you can be glad: you enjoy the same rights towards the university as an adult student. Even those who are issued a general consent by their parents can independently perform many actions that are a matter of course for students of full age.

For all the others, the participation of their parents is still required for each individual step on the procedure.

However, only the underage students in Baden-Württemberg and North Rhine-Westphalia study in the certainty that these rights are legally guaranteed for them and do not depend on their parents or the acceptance of a general consent by the university. It is therefore also conceivable that the state higher education laws of other federal states will be changed according to these models in order to create legal certainty.



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An even more far-reaching change would be made to Section 113 of the Civil Code, meaning that it would no longer only cover service and employment relationships, but also studies and professional trainings. This would have the consequence that underage students could, for example, also rent a flat independently or cover their living costs independently of the support granted from their parents.



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DIE INHALTE DIESER BROSCHÜRE SOWIE DIE DAMIT
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Students for Students is a Projekt of RCDS (Ring Christlich-Demokratischer Studenten)
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