

## **Information sheet on allocating topics for and completing 'external' Bachelor's, Master's and doctoral theses**

Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU) has close partnerships with many companies.

One of the results of these application-orientated partnerships is that companies are often interested in contributing to students' academic training while students wish to take advantage of the opportunity to gain valuable experience by working on issues arising from practice and in a practical setting from an academic perspective.

More and more FAU students and doctoral candidates are now completing Bachelor's, Master's and doctoral theses<sup>1</sup> at companies as part of such partnerships.

The term 'external Bachelor's/Master's thesis' is now commonly used to refer to papers that fall under this category and is the term that is used in this information sheet. An 'external' thesis is a thesis on a topic suggested by a company and/or that is completed while working at a company and is related to the company's work and data.

However, it must not be forgotten that 'external' theses are still FAU theses. The allocation of topics for and the supervision and processing of these academic theses raises many questions about legal issues and processes that affect all those involved (students, companies, supervisors<sup>2</sup>, FAU).

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<sup>1</sup> The principles described in this information sheet also apply to all other kinds of papers, written assignments and project work.

<sup>2</sup> Or the person authorised to accept papers according to the examination regulations.

## A. General principles

### 1. Bachelor's and Master's theses

Bachelor's and Master's theses are university examination achievements. They must be completed in order to be awarded the Bachelor's or Master's degree that the student is working towards. The requirements for such a thesis stipulated in the Bavarian Higher Education Act (Bayerisches Hochschulgesetz) and the examination regulations must be adhered to in order for the thesis to be recognised as an examination achievement. This includes, in particular, the following:

a) The thesis must be completed under the **supervision of an FAU lecturer**. In certain cases the examination regulations may permit the topic of the thesis to be suggested by a third party – a company in this case. In such cases it must be ensured that the candidate is supervised by a suitable person in the company and that permission is given by an FAU examiner. Permission must also be given by the examinations committee.

The precise topic of the thesis and the entire formal process for this element of the thesis remain the sole responsibility of the FAU lecturer supervising the thesis. Good collaboration between the FAU supervisor, the company, and the person acting as supervisor there is essential.

b) It must be possible for the student to complete the Bachelor's or Master's thesis within the **period** specified in the examination regulations.

c) Neither a company nor any other external institution or person may be given the right to influence the topic or content of the Bachelor's or Master's thesis while it is being worked on. In accordance with the examination regulations, suggestions of this kind are **non-binding suggestions** for the FAU supervisor or the candidate. Neither the candidate nor the company has a right to the allocation of a specific topic.

d) In accordance with the examination regulations, only the candidate themselves has a right to inspect **examination documentation** associated with the evaluation of the thesis (notes, examiners' comments, etc.). The company is not permitted to inspect this documentation.

e) Due to reasons of competition and market policy, companies may require candidates completing their thesis while working at their company to **maintain confidentiality** with regard to internal and company-related data. Such obligations may only be agreed to if this does not affect the candidate's ability to work on the topic, i.e. they are able to complete the thesis as a university examination achievement within the given period and submit it to the appropriate body at FAU.

f) **Publication** of Bachelor's and Master's theses is not intended according to the examination regulations but is possible with the candidate's consent – subject to any agreements with the company.

## 2. Additional provisions for doctoral theses

Doctoral theses are also university examination achievements that must meet the requirements stipulated in the Bavarian Higher Education Act and the doctoral regulations.

a) The **general principles given above** – subject to the differences in the doctorate procedure – also apply here.

b) According to FAU's **doctoral regulations**<sup>3</sup> the doctoral thesis must be on a topic in an area represented by an FAU lecturer. The faculty doctoral regulations may permit part-time lecturers and individuals with doctoral degrees (who are able to continually supervise the doctoral proposal due to their employment at FAU or an institution associated with FAU) to be appointed as supervisors on an individual or general basis.<sup>4</sup>

c) Whether the doctoral thesis is completed **at FAU or elsewhere** is not of primary importance. It is therefore possible for theses completed outside the faculty to be submitted providing that they are discussed with an authorised advisor at FAU before submission and, in particular, that they are completed with continuous supervision.

d) Only the doctoral candidates have a right to **inspect** examination documentation.

e) Unlike for Bachelor's and Master's theses, doctoral theses **do not have to be completed within a set period**.

f) Furthermore, after completing the oral examination – and unlike other examination papers (e.g. Bachelor's/Master's theses) – the doctoral regulations stipulate that the approved version of the doctoral thesis **must be published**. This must be given particular consideration when entering into any agreements with companies (see B) as the doctorate procedure cannot be completed properly otherwise.

## B. Important information for Bachelor's/Master's candidates and doctoral candidates

### 1. Contracts with companies

Candidates completing 'external' theses are usually given a contract by the company detailing aspects such as their role in the company, any obligation to maintain confidentiality regarding internal and company-related data, issues related to industrial property rights, exploitation rights and rights of use, liability, and, if applicable, remuneration. In order to protect themselves candidates should check that such contracts comply with the general principles given in section A and with the following points:

<sup>3</sup> See <http://www.promotion.uni-erlangen.de/promotion/Rahmenordnung.shtml>.

<sup>4</sup> In addition, the specific provisions for doctoral degrees completed in co-operation with other universities in Germany or abroad must be adhered to (see Sections 18 and 19 of the General Doctoral Regulations).

a) Any **ties to the company** beyond the scope of the thesis itself and the time spent working on it should be considered carefully. Such ties may result in limitations and difficulties, for example:

- if the results of the work are used for profit, due to aspects of property rights or copyright law, for example
- if the topic of the thesis is investigated in more depth or breadth at a later date (e.g. as part of a doctoral thesis); here difficulties may occur if the candidate is obliged to transfer to the company or allow the company to use the results of any developments that build on the work in the thesis or if such developments may only be carried out with the company's consent
- when choosing a job after completing the Bachelor's, Master's or doctoral degree

b) The candidate should check carefully whether they are able to adhere to the obligations defined by the company. This includes **granting rights of use** for the results of the thesis. Companies may not be granted such rights or may not be granted exclusive rights if software owned by an FAU chair/institute or intellectual property owned by members of a chair/institute were used for the thesis.

## 2. Insurance

Insurance should be discussed with the company in advance. Students should be aware that contracts usually stipulate that students are not covered by the company's social insurance and that the company is therefore not liable if a student has an accident at work. It is also recommended that students clarify the issue of **health insurance coverage** – especially if they will be spending time abroad while completing the thesis – in advance. As students are outside of the University's sphere of influence while working at companies or travelling, they are not covered by the University's statutory accident insurance, meaning that students working on 'external' theses **do not have any statutory accident insurance coverage**. They should therefore consider taking out **private accident insurance** during this period or arrange coverage by the company as part of its **industrial accident insurance**. Furthermore, it should be checked whether existing private **liability insurance** covers the risks associated with the thesis work. If this is not the case or if the student does not have private liability insurance it is strongly recommended that they take out suitable insurance.

## 3. Doubts

If the candidate is unsure of whether they are able to sign the contract given to them by the company governing the conditions for the thesis they should contact their supervisor or an appropriate contact person in the University Administration (see E).

## C. Important information for FAU supervisors

## 1. Remuneration

For university lecturers allocating topics for and supervising 'external' theses, the issue of remuneration provided by the company may arise if the results of the thesis, which to a considerable extent are made possible through the lecturer's supervision and/or use of university resources (e.g. equipment, laboratory, software), are of commercial value for the company.

In such cases the following applies:

**The supervision of academic theses is the University's responsibility and an official responsibility of professors appointed at the University as part of their professional duties [see Section 9 (1)(1)(4) of the Bavarian Law on Academic Personnel of Higher Education (Bayerisches Hochschulpersonalgesetz)].**

Under consideration of this obligation it is therefore not permitted

- for those in secondary employment at the University to act as supervisors
- to request, agree to, or accept financial compensation for oneself or for the University for the supervision of the thesis or for arranging for the thesis to be completed. It is also not permitted to arrange for a thesis to be completed as the sole subject of a research and development contract for which payment will be received. However, it is permitted for a thesis to be completed as part of a research and development contract for which payment will be received providing that the work that is the subject of the contract is carried out by FAU staff and that no specific remuneration is calculated or requested for the completion/supervision of the thesis.

## 2. Recommendations

In light of the above, the following must be adhered to when allocating topics for 'external' theses:

a) Supervisors may only accept **suggested topics** for 'external' theses that are within their area of expertise, i.e. that they are able to supervise as part of their official duties and for which no more than the normal amount of resources belonging to the chair/institute are required in order for supervision to take place.

Lecturers are advised to give students sufficient advanced notice of this requirement so as to ensure that rejection of suggested topics for 'external' theses that do not meet these basic principles is foreseeable and understandable. Neither the candidate nor the company has a right to the allocation of a specific topic.

b) During the **evaluation** of an 'external' thesis the supervisor only judges the academic quality of the work and not the company-related data used for the thesis. As discussed above, remuneration for supervision of a thesis is not permitted.

When allocating the topic of an 'external' thesis the supervisor must ensure that they inform the candidate and the company of these aspects of the evaluation and supervision.

c) It is permitted for the topic of a thesis to be allocated **as part of a research and development contract** between the company and FAU for which payment will be received providing that the work that is the subject of the contract is carried out by FAU staff and that no specific remuneration is calculated or requested for the organisation/supervision of the thesis. In such situations the funding/financial compensation is received for the research and/or for the work produced by the FAU staff and therefore, from the start, is not intended as remuneration for supervision of the thesis.

## D. Copyright law and legal protection of inventions

### 1. Original

According to the examination regulations FAU holds certain rights regarding the original thesis. However, these rights apply only to the physical components of the thesis (e.g. models, plans, paper) and its use for the purposes specified in the examination regulations and doctoral regulations.

### 2. Copyright law

a) Theses – including software used and the presentation of academic and technical content – are considered **written works under the German Copyright Act (Urheberrechtsgesetz)**. The protection of such a work is dependent on whether it is considered a personal intellectual creation. This decision can only be made on a case by case basis. The following applies when judging this issue:

Eligibility for protection by copyright law is not based on the content of the thesis. It is based only on the actual presentation and design, whereby everyday language, the structure, and presentation methods required by or commonly used according to academic conventions are not eligible for protection. The knowledge presented in the thesis, i.e. the academic content, is freely available and not eligible for protection. With regard to the scope of protection, copyright protection for a thesis which is eligible for protection is restricted due to the principle that academic knowledge should be freely available for academic discussion. Therefore, after publication of the thesis with the author's consent, the knowledge contained within it is freely available (Section 12 German Copyright Act), the thesis may be used as a source in the work of others (Section 24 German Copyright Act) and citations of the thesis of a length permissible by copyright law may be used (Section 51 German Copyright Act).

b) Copyright and the resulting **exploitation rights and rights of use** belong solely to the candidate as the author of the thesis. FAU, the supervisor, the examiner or third-parties (such as a company) are only entitled to rights of use if the author grants them such rights. An obligation to grant such rights only exists if previously agreed upon in a contract or if the candidate is also an employee of FAU and the thesis was completed as part of the duties specified in their employment contract.

### 3. Supervisor contribution

Any contribution from a supervisor that would be considered eligible for copyright protection would not be permissible due to the principle that candidates must complete their thesis independently and without significant assistance from others.

a) Suggestions, ideas and other minor forms of assistance are **permissible**. Such contributions do not affect copyright.

b) It would be **contrary to the purpose of the thesis** if the supervisor were to act as a contributing author, such as by writing parts of the thesis or making significant contributions during preparation work for the thesis. This is especially applicable to doctoral theses as they are a form of independent work associated with advancement in an academic career. The copyright for any preparation work for a thesis belongs to the author of the preparation work. Therefore, the supervisor is never entitled to copyright for the results of thesis work.

### 4. Patents

If a new technical idea is presented in a thesis, either in a written description or in drawings or diagrams, there is a possibility of applying for a patent for the invention. Applications must be submitted in line with regulations on patent protection. Please note that patent protection may only be granted if the invention is not available to the public. If the thesis is to be published the patent application must be submitted before publication.

The fact that the candidate is the sole holder of copyright does not always mean that the supervisor is not considered the inventor or a co-inventor as the regulations for patent protection are different to those for copyright (see D.3 above; supervisors may be entitled to patent rights but are not entitled to copyright). If FAU submits a patent application for an invention contained in a thesis at the supervisor's request, the supervisor must inform the candidate before the application is submitted that they may also be entitled to (joint) rights to the patent.



## E. Contacts in the University Administration

The following contacts in the University Administration are available to answer any questions related to 'external' theses:

Office	Areas of responsibility related to 'external' theses	Contact
<b>L 1</b>	<ul style="list-style-type: none"><li>▪ advice on examination law (for 'external' theses that are subject to relevant examination regulations, examination procedures, supervision procedures, etc.)</li><li>▪ copyright related to teaching</li><li>▪ checks of and advice on confidentiality agreements related to teaching</li></ul>	Ms Sybille Eberhardt (Oberregierungsrätin) Phone: 09131 8526509 <a href="mailto:sybille.eberhardt@fau.de">sybille.eberhardt@fau.de</a>
<b>F 1</b>	<ul style="list-style-type: none"><li>▪ advice on research and development contracts, including theses which may be completed as part of such contracts (in collaboration with L1 and other departments)</li><li>▪ copyright related to research</li><li>▪ checks of and advice on confidentiality agreements related to research</li></ul>	Mr Axel Klön (Regierungsdirektor) Phone: 09131 8526766 <a href="mailto:axel.klon@fau.de">axel.klon@fau.de</a>
<b>F 2</b>	<ul style="list-style-type: none"><li>▪ patents</li><li>▪ transfer of knowledge and technology</li><li>▪ further education</li></ul>	Ms Sybille Barth Phone: 09131 8525870 <a href="mailto:sybille.barth@fau.de">sybille.barth@fau.de</a>

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