

99146009029000

Heruntergeladen am 07.06.2025

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Modul	Sachverhalt
Leistungsschlüssel	99146009029000
Leistungsbezeichnung I	
Leistungsbezeichnung II	Appeal procedure (optional); lodging an appeal
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Bayern
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	27.05.2025

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Fachlich freigegeben durch	Bayerisches Staatsministerium des Innern und für Integration (Bavarian State Ministry of the Interior, for Sport and Integration)
Handlungsgrundlage	<a href="http://bundesrecht.juris.de/vwgo/BJNR000170960.html#BJNR000170960BJNG001001308">http://bundesrecht.juris.de/vwgo/BJNR000170960.html#BJNR000170960BJNG001001308</a> <a href="http://bundesrecht.juris.de/vwgo/BJNR000170960.html#BJNR000170960BJNG001001308">http://bundesrecht.juris.de/vwgo/BJNR000170960.html#BJNR000170960BJNG001001308</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayAGVwGO-12">https://www.gesetze-bayern.de/Content/Document/BayAGVwGO-12</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayAGVwGO-12">https://www.gesetze-bayern.de/Content/Document/BayAGVwGO-12</a> <a href="http://bundesrecht.juris.de/bgb/BJNR001950896.html#BJNR001950896BJNG001802377">http://bundesrecht.juris.de/bgb/BJNR001950896.html#BJNR001950896BJNG001802377</a> <a href="http://bundesrecht.juris.de/bgb/BJNR001950896.html#BJNR001950896BJNG001802377">http://bundesrecht.juris.de/bgb/BJNR001950896.html#BJNR001950896BJNG001802377</a> <a href="http://bundesrecht.juris.de/vwgo/_155.html">http://bundesrecht.juris.de/vwgo/_155.html</a> <a href="http://bundesrecht.juris.de/vwgo/_155.html">http://bundesrecht.juris.de/vwgo/_155.html</a> <a href="http://bundesrecht.juris.de/vwgo/BJNR000170960.html#BJNR000170960BJNG001001308">http://bundesrecht.juris.de/vwgo/BJNR000170960.html#BJNR000170960BJNG001001308</a> <a href="http://bundesrecht.juris.de/vwgo/BJNR000170960.html#BJNR000170960BJNG001001308">http://bundesrecht.juris.de/vwgo/BJNR000170960.html#BJNR000170960BJNG001001308</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayKG-9">https://www.gesetze-bayern.de/Content/Document/BayKG-9</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayKG-9">https://www.gesetze-bayern.de/Content/Document/BayKG-9</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayVwVfG-80">https://www.gesetze-bayern.de/Content/Document/BayVwVfG-80</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayVwVfG-80">https://www.gesetze-bayern.de/Content/Document/BayVwVfG-80</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayVv_34_I_12346">https://www.gesetze-bayern.de/Content/Document/BayVv_34_I_12346</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayVv_34_I_12346">https://www.gesetze-bayern.de/Content/Document/BayVv_34_I_12346</a>
Teaser	In some areas of law, the appeal procedure enables an internal administrative review of the initial decision.
Volltext	<p>#### The objection procedure according to the Administrative Court Code</p> <p>The objection procedure in accordance with the German Code of Administrative Court Procedure (VwGO) enables an internal administrative review of the original decision. The following explanations only</p>

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apply to the objection procedure within the meaning of the VwGO. They do not apply to the legal remedies regulated in other laws, such as the objection procedure under the Social Courts Act as a preliminary procedure to an action before the Social Court.

#### Limited scope of application in Bavaria

According to Art. 12 of the Act on the Implementation of the Administrative Court Code (AGVwGO), the appeal procedure against decisions of the authorities of the Free State of Bavaria, the Bavarian municipalities, counties, districts and other legal entities under public law subject to the supervision of the Free State of Bavaria (Art. 12 para. 3 sentence 1 AGVwGO) has been abolished in many areas.

In some areas of law (see Art. 12 para. 1 sentence 1 nos. 1 to 6 AGVwGO), however, there is an optional objection procedure that offers a choice between lodging an objection and bringing an action directly. Within the scope of application of Art. 12 AGVwGO, an objection procedure only exists in the following areas:

1. in the area of municipal tax law
2. in the area of agricultural law, including the law on agricultural subsidies as well as the law on forestry subsidies and hunting shooting plan procedures
3. in the area of school law, including the law on school funding and school transportation
4. in the areas of education and student support law, residential care law, child and youth welfare law, child, youth and family support, war victims' welfare law, severely disabled persons' law, maintenance advance law, housing benefit law, broadcasting levy law and in the context of funding under the European Social Fund (ESF funding), insofar as administrative recourse is available in each case,
5. in matters concerning civil servants with the exception of disciplinary law,
6. in the case of personal examination decisions.

**\*\*Please note\*\*** : Insofar as other (federal or state)

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laws and ordinances contain provisions on preliminary proceedings that deviate from Art. 12 AGVwGO (e.g. Section 141 (1) of the Land Consolidation Act; Sections 336 to 338 of the Equalization of Burdens Act; Section 6 (1) of the Ordinance on Reallocation Committees and Preliminary Proceedings in Reallocation Matters), these take precedence as special provisions (Art. 12 (3) sentence 2 AGVwGO).

Art. 12 AGVwGO\*\*does not apply\*\* to administrative acts issued by federal authorities (e.g. Federal Office for Migration and Refugees), even if they have their registered office or a branch office in Bavaria.

#### Filing an objection; form and competent authority

The objection must be lodged in writing, electronically or for the record (subject to a fee) with the original authority (the authority that issued the decision to be contested, e.g. district administration office or district-free city). The appeal can also be lodged with the appeal authority. An objection submitted by personally signed fax or by computer fax with a scanned signature complies with the written form requirement. An oral or telephone objection is inadmissible. If the recipient has opened a corresponding access for the transmission of electronic documents, an objection can also be lodged in electronic form. According to Section 70 sentence 1 VwGO i.V.m. § Section 3a (2) and (3) VwVfG, an objection may be lodged by the following electronic means:

- Transmission of a document with a qualified electronic signature,
- direct submission of the declaration in an electronic form if this is made available by the authority in an input device or via publicly accessible networks (in the second case only when using an electronic proof of identity in accordance with Section 18 of the German Identity Card Act, Section 12 of the eID Card Act or Section 78 (5) of the Residence Act)
- Transmission of a declaration electronically signed by the declarant to the authority

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\- from one of the mailboxes or specified in Section 3a para. 3 no. 2a to c) VwVfG

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using the transmission method specified in Section 5 para. 5 of the De-Mail Act.

- For public authorities:

\- by sending an electronic document bearing the authority's qualified electronic seal or

\- by sending a De-Mail message in accordance with Section 5 (5) of the De-Mail Act, in which the confirmation of the accredited service provider identifies the public authority as the user of the De-Mail account.

However, it is not possible to lodge a legally effective objection by (simple) e-mail.

The objection should be sufficiently justified. Only if the authority knows why you do not agree with the contested decision can it carry out a comprehensive review.

### #### The redress procedure

The redress procedure (Section 72 VwGO) is part of the appeal procedure. It is conducted by the original authority, which is given the opportunity to comprehensively review the decision itself. Only then is the matter submitted to the appeal authority.

#### Does a contested decision have to be complied with despite an objection? - Suspensive effect

According to Section 80 (1) VwGO, an objection generally has suspensive effect, i.e. the contested administrative act does not initially have to be

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complied with. However, this principle has been restricted by a number of statutory regulations. For example, the suspensive effect is waived by law in accordance with Section 80 (2) sentence 1 VwGO, e.g. in the case of demands for public charges (such as contributions and fees) and costs and, above all, in other cases prescribed in various laws. Furthermore, the objection has no suspensive effect if the immediate execution is specifically ordered by the authority (Section 80 (2) sentence 1 no. 4 VwGO).

Administrative acts usually contain a reference to the suspensive effect of the objection, if this is possible.

**Erforderliche Unterlagen**
**Voraussetzungen**

none

**Kosten**

The objection procedure is generally subject to costs.

Who has to bear the costs (fees and expenses) depends on the extent to which the objection was successful (Art. 80 Para. 1 Bavarian Administrative Procedure Act; Section 155 Para. 1 VwGO by analogy).

The regulations on the amount of the fees can be found in the Costs Act (Kostengesetz - KG), in particular in Art. 9 KG.

Expenses and other costs are only included in the costs of the procedure to the extent that they were necessary. This can only be the case if it was necessary to hire a lawyer in the first place (for details, see Art. 80 para. 2 and para. 3 of the Bavarian Administrative Procedure Act).

**Verfahrensablauf**
**Bearbeitungsdauer**
**Frist**

The objection pursuant to Section 70 (1) VwGO must be lodged **\*\*within one month\*\*** of notification of the decision. If the information on legal remedies is missing or incorrect, the objection period is one year (Section 70 (2) in conjunction with Section 58 (2) VwGO). The objection period is determined by applying

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	sections 187 et seq. of the German Civil Code (BGB) accordingly. If the last day of the objection period falls on a Saturday, Sunday or public holiday, the period does not end until the following working day at midnight (Section 193 BGB accordingly).
weiterführende Informationen	<a href="https://www.stmi.bayern.de/media/_bayernportal/2014-04-08_widerspruchsverfahren_fragen_antworten.pdf">https://www.stmi.bayern.de/media/_bayernportal/2014-04-08_widerspruchsverfahren_fragen_antworten.pdf</a> <a href="https://www.stmi.bayern.de/media/_bayernportal/2014-04-08_widerspruchsverfahren_fragen_antworten.pdf">https://www.stmi.bayern.de/media/_bayernportal/2014-04-08_widerspruchsverfahren_fragen_antworten.pdf</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayV_34_I_12346-58">https://www.gesetze-bayern.de/Content/Document/BayV_34_I_12346-58</a> <a href="https://www.gesetze-bayern.de/Content/Document/BayV_34_I_12346-58">https://www.gesetze-bayern.de/Content/Document/BayV_34_I_12346-58</a>
Hinweise	
Rechtsbehelf	<p>If the objection has no suspensive effect, an application for suspension of enforcement can be made to the original authority or the objection authority in accordance with Section 80 (4) VwGO. Instead, an application for an order or restoration of the suspensive effect of the objection can be made to the competent Bavarian Administrative Court in accordance with Section 80 (5) VwGO.</p> <p>Please note: If it concerns the demand for public charges and costs (§ 80 Para. 2 Sentence 1 No. 1 VwGO), an application to the court is generally only admissible if the authority has previously rejected an application for suspension of enforcement (§ 80 Para. 6 VwGO).</p>
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	BayernPortal, BayernPortal