

Candidate misconduct policy

Contents

1. Purpose	2
2. Overview	2
3. Scope	2
4. Principles	2
5. Policy	3
Definition of misconduct	3
Examples of misconduct	3
Reporting alleged misconduct	4
Investigation	4
Misconduct panel	5
Penalties for misconduct	5
Review and Appeal	6
6. Roles and responsibilities	6
7. Related documents	7
8. Document information	7

1. Purpose

The Australian Dental Council (ADC) has a responsibility to uphold the integrity of the assessment process for overseas qualified practitioners in the interest of public safety.

The Candidate Misconduct Policy defines how the ADC considers cases of alleged misconduct by candidates participating in the ADC's assessment and examination processes for overseas qualified dental practitioners and ensures candidates are afforded a fair opportunity to demonstrate their knowledge and skills.

2. Overview

The ADC is committed to:

- setting clear expectations of candidate behaviour which are consistent with that outlined in the Dental Board of Australia's (DBA's) Code of Conduct for registered dental practitioners;
- identifying cases of alleged misconduct and investigating them promptly and fairly; and
- where necessary and proportionate, taking action in response to cases of misconduct which ensure public safety and maintain confidence in the ADC's assessments and examinations.

This policy sets out how cases of alleged misconduct are handled and identifies the process of reporting, investigating, and assessing the level of misconduct relating to any of the three stages of the ADC Assessment process, i.e. Initial assessment, written examination and practical examination.

3. Scope

This policy applies to all current, past and prospective candidates undertaking the ADC Assessment process for overseas qualified dental practitioners and includes candidates solely applying for skills assessments for migration purposes.

4. Principles

Commitment to our values

The ADC is a values-driven organisation. It is expected that candidates conduct themselves with integrity and in line with all ADC values. It is expected that candidates will comply with all ADC policies and procedures relating to the ADC assessment process.

ADC staff and misconduct panel members will behave according to the ADC values and will make decisions on the merits of each case, having regard to all relevant information available.

Respect

All candidates, ADC staff and stakeholders will be treated with respect and courtesy. Respectful behaviour is expected from all parties involved in a misconduct process.

Inclusivity

Behaving in a respectful and inclusive manner towards others is an expectation of all candidates. Failure to meet this expectation is considered a conduct issue.

Every effort will be made to ensure misconduct processes are managed in a way that minimises stress and is culturally appropriate and accessible.

Fair treatment and the right to be heard

Candidates will be treated fairly and without biases and will be afforded the opportunity to respond to cases of alleged misconduct against them.

The principles of natural justice will be applied to the application and interpretation of this policy. This means:

- we will ensure that all parties are given adequate information and time to participate or respond meaningfully
- we will give all people affected or involved an opportunity to present their point of view and respond to facts presented, and
- we will manage misconduct processes in an equitable and unbiased manner.

Timeliness

The ADC will:

- consider all cases of alleged candidate misconduct promptly;
- notify a candidate of the outcome of a misconduct finding within two weeks from the date a decision is made.

Confidentiality

All misconduct matters will be dealt with in accordance with the Privacy Act 1988 and the ADC's Privacy Policy. Matters will be treated with strict confidentiality. Only individuals with a legitimate need to be informed will be made aware of any investigation or process associated with misconduct.

The ADC reserves the right to release information about misconduct matters to relevant authorities, such as regulatory and administrative bodies like Ahpra and the National Boards, the Australian Federal Police or the Department of Home Affairs, where required by law and/or in other instances, where there may be a risk to public safety, property and/or persons.

5. Policy

Definition of misconduct

Misconduct is defined as any behaviour or attempted behaviour, whether intentional or not, that occurs before, during, or after a candidate's participation in the ADC Assessment process and:

- is reasonably considered to be in breach of ADC assessment and examination policies, or any written or verbal instructions provided to candidates; or
- is otherwise inconsistent with the Health Practitioner Regulation National Law Act 2009 (National Law) and the National Board's Code of Conduct; or
- may result in an unfair advantage, or the disruption of the ADC assessment process.

Examples of misconduct

Examples of misconduct include, but are not limited to:

General Misconduct

- engaging in behaviour towards staff, examiners, candidates or other representatives that is deemed inappropriate or unacceptable – including, but not limited to, the use of verbal or written threats – and falls outside the expected conduct of a qualified practitioner;
- submitting fraudulent or falsified documentation or making untrue statements;

Misuse of Examination Environment or Process

- participating in an examination for a purpose other than a genuine desire to pass that examination, or that may appear other than a genuine desire to pass that examination;
- failing to follow the reasonable instruction of staff, examiners or delegates during an examination;
- taking unsupervised absences during an exam without appropriate authorisation;
- gaining or seeking to gain unauthorised access to an examination venue;
- taking actions which may impact on the ability of others to complete their examination tasks;

Cheating During Examinations

- allowing another person to complete an examination on behalf of a candidate;
- communicating with, copying from, giving assistance to or accepting assistance during an examination;
- bringing unauthorised materials/devices, including recording devices, into an examination, or receiving unauthorised materials during an examination;
- removing, or attempting to remove materials from an examination, including notes and/or scrap paper;

Accessing or Misusing Examination Content

- accessing or attempting to access unauthorised copies of examination materials;
- sharing, distributing, discussing, selling or attempting to share, distribute, discuss or sell examination questions or any of their content through any medium, digital or otherwise, including on social media and/or internet;
- acting or attempting to act in any way that is in breach of the intellectual property rights in the examination content or procedures, or inconsistent with those rights;

Academic Dishonesty in Submissions

- presenting work for assessment that is not your own (plagiarism);
- presenting any work as independent work when it has in fact been produced in whole or in part with others (collusion).

Reporting alleged misconduct

Any person may report alleged misconduct by a candidate to a member of ADC staff.

All reports, written or verbal, will be recorded.

On receipt of a report, the matter will be assessed to determine whether the report identifies an ADC candidate and whether there is sufficient information to suggest possible misconduct.

The assessment will be made by the Executive Director, Assessments and Examinations (or delegate) and an ADC manager (or delegate).

If it is concluded that further consideration is not required, the matter will be closed.

In appropriate cases, advice will be given to a candidate about their future conduct.

Investigation

If further investigation is required, the nominated ADC manager will gather any further information.

The candidate will be notified that a report of alleged misconduct has been made about them. In accordance with principles of natural justice the candidate will be given the opportunity to respond. They will be provided with written information about the alleged misconduct and invited to provide any written comments in response. They will be given at

least 14 days to respond.

The nominated ADC manager will complete a report outlining the details of the case and refer the matter to the Executive Director, Assessments and Examinations (or delegate) for further consideration.

The Executive Director, Assessments and Examinations (or delegate) will consider all the available information including any response from the candidate and reach a conclusion about whether the matter can be closed or whether it needs to be referred to a Misconduct Panel for consideration.

Misconduct panel

Where the matter is referred to a Misconduct panel, the candidate will be notified. They will be reminded of the potential penalties that may apply and invited to provide any further written submissions for the consideration of the Misconduct panel. They will be given at least 14 days to respond.

The Misconduct panel will comprise:

- A minimum of two members of the ADC Assessment Committee including the Chair of the Committee (or delegate), who will act as Chair of the Misconduct panel.
- A member of the ADC Accreditation Committee.

The Misconduct Panel has the right to inform itself as it sees fit subject to the rules of procedural fairness and natural justice.

The candidate does not have the right to appear before the Misconduct panel, unless the Misconduct panel determines otherwise.

An investigation report including any information gathered in the investigation and any responses from the candidate will be provided to the Misconduct panel.

In the event that the candidate fails to make a written submission within the specified timeframe, the Misconduct panel will proceed to consider the matter based on the available information and without the requirement to provide further notice to the candidate.

The Misconduct panel will consider all the available information and make a final decision about whether misconduct occurred and what penalties should apply (if any).

Penalties for misconduct

Misconduct may attract one or more of the following penalties:

- a written warning; and/or
- a requirement to re-submit an initial assessment at the candidate's expense; and/or
- a requirement to re-sit an examination at the candidate's expense; and/or
- voiding of an examination attempt and results; and/or
- suspension from the ADC assessment process for a specified period of up to 3 years; and/or
- exclusion from the ADC assessment process; and/or
- voiding or withdrawal of an ADC completion certificate; and/or
- referral to appropriate agencies including regulatory and administrative bodies like Ahpra and the National Boards, the Australian Federal Police or the Department of Home Affairs.

In determining which penalty should apply (if any), the Misconduct panel will take into

account all the available information and will have regard to the following:

- the nature and extent of the misconduct including intent;
- any previous occasions of misconduct;
- the impact of the misconduct on other candidates and confidence in the ADC's assessments and examinations; and
- any mitigating circumstances.

The candidate will be notified within 14 days from the date the Misconduct panel reaches its decision. Where one or more penalties are applied, the candidate will be given reasons for the decision.

Review and Appeal

Candidates are able to challenge a finding of misconduct in accordance with the ADC Review and Appeal policy, and if one of the following grounds are met:

- the procedural requirements as specified by the ADC in this Candidate Misconduct policy, were not followed or not followed to a significant extent; or
- there were significant deficiencies in the processes used to reach a decision.

Applications must be made in writing within 28 days of notification of a finding of misconduct and must set out the decision being challenged and the reasons why. Applications must be accompanied by payment of the relevant fee.

As part of the Review and Appeal process, all records relating to the candidate misconduct will be made available to the Review panel including information/documents supplied by the candidate.

For further information about the process, including possible outcomes, candidates should refer to the Review and Appeal policy.

6. Roles and responsibilities

Candidates

Candidates are required to:

- act in accordance with the ADC values
- demonstrate courtesy and professionalism in all matters when interacting with ADC staff, examiners or other representatives in writing or in person;
- be familiar and comply with the content of the relevant policies and candidate information materials available on the ADC website;
- participate in ADC Assessment process, including both written and practical examinations, in a manner consistent with the expectations set out in relevant policies;
- make declarations at key stages of the assessment and examinations processes including the following:
 - making a declaration at the initial assessment stage that the information and documentation they provide is true and correct
 - signing a candidate rules agreement prior to sitting the written examination
 - signing a candidate rules agreement prior to sitting the practical examination.

ADC staff

ADC staff are required to:

- act in accordance with the ADC values
- ensure privacy and confidentiality are maintained
- observe the principles of natural justice and procedural fairness
- be compliant with this policy in the performance of their duties
- keep the candidate informed of the process as appropriate

Misconduct panel

Misconduct panel members are required to:

- act in accordance with the ADC values
- ensure privacy and confidentiality are maintained
- observe the principles of natural justice and procedural fairness
- make decisions in line with this policy

7. Related documents

- ADC Standards for Assessment of Overseas Dental Practitioners
- Written examination handbook for general dentistry
- Written examination handbook for dental hygiene and dental therapy
- Candidate rules agreement for the written examination
- Practical examination handbook for dentists
- Practical examination handbook for dental hygiene and dental therapy
- Candidate rules agreement for the practical examination
- Appeal and Review policy

8. Document information

Policy Owner:	Executive Director, Assessments and Examinations
Approved by:	CEO
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*unless otherwise indicated, this policy will continue to apply beyond the review date