

Candidate misconduct policy

© Australian Dental Council Ltd
PO Box 13278
Law Courts Victoria 8010
Australia

Tel: +61 (0) 3 9657 1777
Fax: +61 (0) 3 9657 1766
Email: info@adc.org.au
Web: www.adc.org.au
ABN: 70 072 269 900

Document Version Control

Rev	Description	Originator	Reviewed	Approved	Date
1	Final version	ADC	Senior Management	ADC Board	19.03.2018
2	2019 revision	M Guthrie	D Bailey	Senior leadership team	August 2019

Table of Contents

1.	Introduction.....	4
2.	Definition of misconduct.....	4
3.	Process	5
4.	Appeals.....	8
5.	Timeliness	9
	Appendix 1: Sanctions for misconduct	10

Candidate misconduct policy

1. Introduction

1.1 This document sets out the Australian Dental Council (ADC) policy for considering cases of alleged misconduct by candidates participating in the ADC's assessment and examination processes for overseas qualified dental practitioners. This includes the following stages:

- initial assessment
- written examination
- practical examination

1.2 The ADC is committed to the following:

- 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
- 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.

2. Definition of misconduct

2.1 The ADC's expectations of candidates are clearly articulated throughout a candidate's participation in the assessment and examination processes, including in the following documents. Candidates are expected to be familiar with the content of these policies.

- Written examination handbook for general dentistry
- Written examination handbook for dental hygiene and dental therapy
- Practical examination handbook for dentists
- Practical examination handbook for dental hygiene and dental therapy.

2.2 Candidates are also required to 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.

2.3 Misconduct under this policy is divided into two areas – general misconduct and examination misconduct. Examples of behaviours which are considered to be misconduct in these areas follow.

- 2.4 However, they are not intended to be exhaustive. Any behaviour by a candidate which the ADC reasonably concludes is in breach of published assessment and examination policies (including those outlined in paragraphs 2.1 and 2.2 above) or is otherwise inconsistent with the DBA Code of conduct may be considered to be misconduct.

General misconduct

- 2.5 Candidates are expected to demonstrate courtesy and professionalism in all matters when interacting with ADC staff, examiners or other representatives in writing or in person.
- 2.6 Examples of general misconduct include (but are not limited to) the following:
- submitting fraudulent or falsified documentation or making untrue statements
 - behaving in a way towards ADC staff, examiners or other representatives that can reasonably be considered to be outside that to be expected of a qualified dental practitioner.

Examination misconduct

- 2.7 Candidates are expected to participate in examinations in a manner consistent with the expectations set out in relevant policies.
- 2.8 Examples of examination misconduct include (but are not limited to) the following:
- allowing another person to complete an examination on behalf of a candidate
 - communicating with, or copying from, another candidate during an examination
 - bringing unauthorised materials into, or receiving unauthorised materials during, an examination
 - removing materials from an examination
 - accessing unauthorised copies of examination materials in advance
 - unauthorised access to an examination venue
 - sharing, selling or attempting to sell ADC examination questions
 - taking actions which may impact on the ability of others to complete their examination tasks
 - failing to follow the reasonable instruction of ADC staff, examiners or delegates during an examination.

3. Process

- 3.1 The ADC will follow this process when a report of alleged misconduct is received.

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.

Assessment of report

- On receipt of a report, the matter will be assessed to determine whether the report identifies an ADC candidate and there is sufficient information to believe that misconduct may have occurred.
- The assessment will be made by the Director, Assessments and Examinations (or delegate) and the relevant manager as outlined below:
 - in cases of alleged misconduct in the initial assessment and written examination stages, the Manager, Examination Development (or delegate).
 - In cases of alleged misconduct in the practical examination, the Manager, Examination Delivery (or delegate).
- If it is concluded that further consideration is not required, the matter will be closed.
- In appropriate cases, advice may be given to a candidate about their future conduct.

Investigation

- If further investigation is required, the relevant manager will gather any further information.
- The candidate will be notified that a report of alleged misconduct has been made about them. They will be provided with written information about the alleged misconduct and invited to send any written comments in response. They will be given at least 14 days in which to respond.
- The relevant manager will complete a report outlining the details of the case and refer the matter to the Director, Assessments and Examinations (or delegate) for further consideration.

Level of misconduct

- The Director, Assessments and Examinations (or delegate) will consider all the available information including any response from the candidate and reach a conclusion about whether misconduct has taken place.
- Where it is concluded that misconduct has taken place, an assessment will be made of the level of misconduct on a three-point scale: **'minimal'**, **'moderate'** and **'serious'**.
- The following factors will be taken into account in determining the level of the misconduct:
 - 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
 - any mitigating circumstances.
- The following provides some guidance to decision makers and to candidates on what might be considered 'minimal' at one end of the scale and 'serious' at the other end. However, this is a guide only. Decision makers will consider every report on a case-by-case basis, to determine the level that should be assigned.
- A case of misconduct may be considered minimal where one or more of the following circumstances apply:
 - there was little or no intent on behalf of the candidate

- the misconduct was an isolated incident
 - there was little or no potential for unfair advantage or gain for the candidate
 - there was little or no impact on other candidates; ADC staff, examiners or other representatives; and/or on confidence in the ADC's assessments and examinations processes
 - the candidate has accepted that misconduct occurred and expressed appropriate insight and understanding into their behaviour.
- A case of misconduct may be considered **serious** where one or more of the following circumstances apply:
 - the misconduct was deliberate, reckless and/or dishonest
 - the misconduct was repeated and/or the candidate has previously been found to have committed misconduct
 - there was real potential for unfair advantage or gain for the candidate
 - the misconduct has had a demonstrable impact on other candidates; ADC staff, examiners or other representatives; and/or on confidence in the ADC's examinations and assessments processes
 - the candidate has not accepted that misconduct occurred and has failed to demonstrate appropriate insight and understanding into their behaviour.

Decision about action required

- The level of misconduct will determine which decision makers decide the action that should be taken and the range of sanctions available.
- In cases where the misconduct is assessed as '**minimal**' (**level 1**), any sanction required will be determined by the Director, Assessments and Examinations.
- In cases where the misconduct is assessed as '**moderate**' (**level 2**), any sanction required will be determined by the Director, Assessments and Examinations and the Chief Executive Officer.
- In cases where the misconduct is assessed as '**serious**' (**level 3**), the matter will be referred to a misconduct panel to determine any sanction required.
- See Appendix 1 for more information about the levels of misconduct and the sanctions that can be applied.
- In determining which sanction should apply (if any), decision makers under this policy (including a misconduct panel) will take into account all the available information and will have regard to the factors outlined above for determining the level of misconduct.
- Where a level 1 or level 2 sanction is applied, the candidate will be notified, with reasons given for the decision.

Misconduct panel

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

- The 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 panel.
 - A member of the ADC Accreditation Committee.
- The candidate does not have the right to appear before the Panel.
- An investigation report which includes any information gathered in the investigation, any responses from the candidate and the assigned level of misconduct will be considered by the Panel.
- The Panel will consider the available information and make a final decision about the level of misconduct and the sanction that should apply (if any).
- The candidate will be notified of the outcome, with reasons given for the decision.

4. Appeals

4.1 Candidates are able to appeal against a decision to apply a sanction under this policy.

4.2 There are two grounds for an appeal:

- The manner in which the candidate misconduct policy has been followed has been procedurally unfair.
- The decision reached on misconduct and/or sanction is unjustified or unreasonable on the basis of the available evidence.

4.3 An appeal must be made in writing to the Director, Assessments and Examinations within 28 days of notification of a decision to apply a sanction. Appeals must set out the decision being appealed against and the reasons why. Appeals must be accompanied by payment of the relevant fee. The fee for appeals shall be in line with the fee set for 'Application for review – practical examination' as published on the ADC website.

4.4 Appeals will be considered by an Appeal panel ('the Panel'). The members of the Panel must not have had any previous involvement in the matter being appealed against. The Panel will consist of the following membership.

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

4.5 All records relating to the candidate misconduct will be made available including information/documents supplied by the candidate. The candidate does not have the right to appear before the Panel.

4.6 The possible outcomes of the appeal are as follows.

- The original decision is upheld.
- The original decision is not upheld.
 - The matter is remitted back with directions for reconsideration under this policy. (For example, a direction that further investigation is required before reconsideration of the case by a fresh Misconduct panel.)

- The outcome of the case is substituted for any decision that could have been made under this policy. (For example, a decision to suspend is replaced with a warning.)
- 4.7 Where an appeal is upheld in full or in part, the appeal fee may be refunded in full or in part.
- 4.8 The candidate will be notified of the outcome, with reasons given for the decision.

5. Timeliness

- 5.1 The ADC aims to:
- consider all cases of alleged candidate misconduct promptly
 - make a final decision on cases of alleged misconduct within six to eight weeks of the report and
 - make a final decision about an appeal within six weeks of the appeal.

Appendix 1: Sanctions for misconduct

When misconduct is identified, there is a range of sanctions available to decision makers. The type of sanction that can be applied is dependent on the level of misconduct.

1. Sanctions for general misconduct
 - a) Level 1 general misconduct may attract one or more of the following sanctions:
 - i) a written warning; and/or
 - ii) a requirement that the candidate provides a formal written apology to a relevant party prior to progressing in the ADC process.
 - b) Level 2 general misconduct may attract one or more of the following sanctions:
 - i) any level 1 general misconduct sanction; and/or
 - ii) suspension of progress in the ADC process for a specified period of up to 12 months.
 - c) Level 3 general misconduct may attract one or more of the following sanctions:
 - i) any level 2 general misconduct sanction; or
 - ii) exclusion from the ADC process.
2. Sanctions for examination misconduct
 - a) Level 1 examination misconduct may attract one or more of the following sanctions:
 - i) a written warning; and/or
 - ii) satisfactory completion of an appropriate remediation task, prior to progressing in the ADC process.
 - b) Level 2 examination misconduct may attract one or more of the following sanctions:
 - i) any level 1 examination misconduct sanction; or
 - ii) results of the examination will be recorded as a fail.
 - c) Level 3 examination misconduct may attract one or more of the following sanctions:
 - i) any level 2 examination misconduct sanction; or
 - ii) suspension of progress in the ADC process for a specified period of up to 12 months;
or
 - iii) exclusion from the ADC process.