

MISCONDUCT POLICY



REFERENCE NUMBER: AX_002

DEPARTMENT: ASSESSMENT

I PURPOSE AND SCOPE

This policy applies to all candidates, including former and current candidates, undertaking an assessment with the Council. It also applies to candidates on leave from the assessment process, where the event forming the basis of the allegation of misconduct occurred while they were undertaking an assessment or is directly related to their assessment.

2 DEFINITIONS

Assessment includes any assessment that is part of the current or former Council assessment process.

Electronic devices include, but are not limited to laptop, tablet or handheld computers or readers, calculators, diaries, organisers, portable data storage devices (e.g. disks or memory sticks), mp3 and portable media players, voice recorders, cameras, camera pens, eBook readers, mobile phones and electronic dictionaries.

Supervisor is a person designated to supervise candidates sitting the Written Assessment or the Clinical Assessment.

Work includes, but is not limited to words, data, music, computer code, algorithms or computer code data, calculations, artistic and architectural works, film, video, digital or electronic media designs or ideas, interpretations, computer software, designs, sounds, images, photographs in print or electronic media.

3 POLICY

3.1 MISCONDUCT

Misconduct means seeking to obtain, or obtaining, whether intentionally or not, an unfair advantage, or assisting another candidate to do so, and includes but is not limited to:

- a) Plagiarism, where candidates present work for assessment that is not their own.
- b) Collusion, where candidates present work as independent work when it has in fact been produced in whole or in part with others.
- c) Cheating, where a candidate acts in such a way as to seek to gain unfair advantage or assist another candidate to do so. Cheating can include, but is not limited to:
 - i. a candidate falsely indicating that they have been present at an activity where attendance is required;
 - ii. completing an assessment task outside the conditions specified for that task.
 - iii. communicating in any way during an assessment with any person who is not a Supervisor, inside or outside the venue;
 - iv. giving or accepting assistance from any person who is not a Supervisor, whilst in the venue;
 - v. reading, copying from or otherwise using another candidate's work in an assessment or knowingly allowing a candidate to do so;
 - vi. possessing, referring to or having access to any material or device containing information directly or indirectly related to the subject matter being assessed, other than that explicitly approved by the Council;
 - vii. acquiring, or attempting to acquire, possess or distribute assessment materials or information without approval;

- viii. permitting another person to attend an assessment on a candidate's behalf or attending an assessment on behalf of another candidate;
 - ix. breaches of any relevant Assessment Guidelines.
- d) Other acts of misconduct, including but not limited to:
- i. altering or falsifying any document or record;
 - ii. offering or giving money or any item or service to a Council staff member or any other person, to gain advantage for the candidate or another person.

3.2 IDENTIFYING & REPORTING MISCONDUCT

- a) Any person may report an allegation of misconduct in writing to the Council.
- b) Where misconduct is suspected, Council staff will collate evidence of the breach and complete a Suspected Misconduct Incident Form.
- c) If a suspected breach occurs during an assessment, the Supervisor will provide the candidate with an Alleged Breach Notice and complete an Incident Report.

3.3 PRELIMINARY REVIEW

- a) All completed forms and notices will be sent to the General Manager, Assessment who will conduct a preliminary review to ensure that there is evidence to support the allegation of misconduct.
- b) Upon making a positive determination:
 - i. the allegation will be referred to the Chief Executive Officer;
 - ii. the Chief Executive Officer will notify the candidate in writing, (the Notification Letter) within 5 business days of receiving notification of the allegation, that an allegation of misconduct has been made against them and will provide details of the alleged breach; and
 - iii. the Chief Executive Officer will initiate the process of formal inquiry to investigate the breach.
- c) If the preliminary review finds no evidence supporting allegation, the outcome of the assessment will be determined in the usual manner.
- d) In the event that the General Manager, Assessment made the allegation, the General Manager, Assessment will complete the required documentation and forward it to the Chief Executive Officer, who will conduct the preliminary review.

3.4 FORMAL INQUIRY

- a) The candidate will be invited to respond to the allegation at a formal inquiry, which will take place within 20 business days of the Notification Letter.
- b) Candidates will respond to the allegations in writing.
- c) In the event that a candidate does not respond to the allegations in writing, the formal inquiry will proceed in absence of a response.
- d) The formal inquiry will be held by a Panel convened by the Chief Executive Officer. The Panel will be composed of:
 - i. two members of the Assessment Committee; and
 - ii. one external person who is a non-physiotherapist with experience in the investigation of complaints and academic misconduct.
- e) The Panel will be entitled to speak to the person who made the allegation and any other person who it considers might help it reach a decision.
- f) The Panel will apply the balance of probabilities test in determining whether misconduct has taken place, and will:
 - i. apply an open, impartial and unprejudiced mind to their duties;
 - ii. base findings and recommendations solely on relevant considerations;
 - iii. maintain confidentiality about all matters before them;
 - iv. not be involved in a case or have any involvement in the finding and recommendation of a case before them if they have a personal relationship with the candidate or direct or indirect financial or personal interest in that case, or other conflict of interest pertaining to the case, even if they do not believe that their interest would affect their duties.

- g) If the formal inquiry finds no evidence supporting allegation, the outcome of the assessment will be determined in the usual manner.
- h) Candidates will be notified of the outcome of the formal inquiry in writing within 5 business days of the formal inquiry.

3.5 PENALTIES

- a) If the formal inquiry concludes that a breach of this policy has occurred, determination of the penalty imposed for breach of this policy may take into account the severity of the breach and any extenuating circumstances submitted on behalf of the candidate. A record will be placed in the Council Misconduct Register and the penalties that may be imposed at the discretion of the formal inquiry are:
 - i. automatic failure of the assessment; and
 - ii. the candidate may be required to re-sit the assessment at the candidate's expense; or
 - iii. suspension of candidature and barring from future application for a period of time determined by the formal inquiry; or
 - iv. expulsion from candidature and barring from any future application; and
 - v. notification of misconduct to the Physiotherapy Board of Australia or other relevant authority.
- b) Where the candidate's breach is of a kind that prejudices the interests of other candidates or the integrity of the assessment process itself, the case may, at the discretion of the formal inquiry, be referred to the Assessment Committee for action. This may result in:
 - i. a penalty of suspension of candidature and barring from future application for a period of time determined by the formal inquiry; or
 - ii. expulsion from the candidature and barring from any future application; and
 - iii. immediate notification of misconduct to the Physiotherapy Board of Australia or other relevant authority.

3.6 RECORDING MISCONDUCT

- a) Records placed on the Council Misconduct Register will be maintained by the Council.
- b) Candidates may have access to their records placed on the register by contacting the Council.

3.7 CONFIDENTIALITY

- a) All investigations of misconduct will remain confidential and all information provided in relation to the allegation will remain confidential and only used for the purpose for which it was provided unless:
 - i. the candidate gives their express consent;
 - ii. the information gives the Council reasonable grounds for concern about the security of people or property;
 - iii. procedural fairness requires the information to be shared;
 - iv. access to the information is required by law.

3.8 APPEALS

- a) Candidates have a right to appeal against a finding of misconduct or a penalty received, within 14 calendar days of being notified of the outcome of the formal inquiry, in accordance with the Internal Review process.

RELATED DOCUMENTS

Policy: Internal Review – Accreditation