

Appendix Five – Policy for Misconduct

INTRODUCTION

1.1 These Regulations apply to all candidates for the European Examination in General Cardiology (EEGC) and are to be used to investigate all aspects of misconduct in the EEGC (see 2.1 for definitions of misconduct).

1.2 These Regulations apply to all candidates, or prospective candidates, for the EEGC. Although the misconduct may relate to actions undertaken through the exam provider (Pearson Vue) or the exam developers (European Society of Cardiology and UEMS-Cardiac Section) where possible the misconduct will be dealt with by the candidate's registering national society (NCS) in line with these Regulations. Each NCS will have an examination board and the chairman of that board (NCS Exam Chair) will be the NCS representative on the EEGC Board. These regulations may, if necessary and deemed appropriate by the EEGC Board, be used by the EEGC Board itself to consider cases of misconduct.

1.3 Candidates should note that by virtue of entering to sit an examination they are deemed to have understood and agreed to respect and abide by all relevant regulations, including these Misconduct Regulations.

1.4 Where a candidate is suspected of misconduct they will not have their results confirmed until the procedures for investigation as detailed in paragraph 4 are complete.

1.5 Investigations will be completed as quickly and efficiently as possible and candidates will be kept informed of progress.

1.6 The NCS and EEGC Boards reserve the right to conduct retrospective investigations, and consequentially to amend or cancel results after they have been confirmed.

1.7 The Boards acknowledge that the process of investigation and false allegations can have an impact on candidates' reputation. For this reason all proceedings will be strictly confidential. However, should the allegation against the candidate be proven, the details of the case will be shared with the relevant regulatory body and the individual responsible for overseeing the candidate's training.

1.8 Any dispute as to the interpretation of these Regulations shall be referred to the Chairman of the EEGC Board whose decision in the matter shall be final.

2 DEFINITIONS

2.1 Misconduct includes, but is not restricted to: (a) Introduction into any examination of any materials other than those specifically permitted for the examination;

(b) Any attempt to remove materials or content (including the use of recording devices) from an examination;

(c) Any attempt to release content from any examination to a third party/commercial organisation

(d) Any attempt to communicate with another candidate;

(e) Any attempt to gain access to or read the work of another candidate;

(f) Any attempt to gain or pass on information about the contents of the examination in advance of the date of the examination;

(g) Impersonation or attempted impersonation of a candidate;

(h) Bribery (of another candidate, examination official, actual or simulated patient)

(i) Unacceptable or disruptive behaviour during an examination;

(j) Failure to abide by the reasonable instructions of an invigilator or other examination official, or breaching of Examination Regulations;

(k) Falsification or alteration of any results document or qualification;

(l) Any other form of cheating or conduct likely to give an unfair advantage to the candidate or others;

(m) Failure to abide by the rules and regulations of the examination centre

(n) Aiding or abetting any of the above.

3 REPORTING PROCEDURES

3.1 Suspected misconduct may be reported to the relevant NCS or EEGC Board by examiners, invigilators, examination officials, candidates and any other person who becomes aware of suspected misconduct.

3.2 In addition to these direct patterns of reporting, the EEGC Board may use computer software to detect cheating, by automatically reviewing all candidates' answers after every examination to identify correlations in response patterns between pairs of candidates beyond what could be expected to occur by chance. This software is known by the generic term 'Anomaly Monitoring System' (AMS).

3.3 Anonymous reports of misconduct will be acted upon only if there is supporting evidence. In such cases invigilators and any other relevant officials may be informed of the allegation and asked to comment.

3.4 Where an invigilator suspects a candidate of infringing examination rules, he/she shall: (a) confiscate any unauthorised material in the possession of the candidate; (b) make a formal and contemporaneous note of the

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time when the alleged infringement was discovered. Wherever possible an invigilator should invite another invigilator to act as witnesses to the suspected infringement; (c) allow the candidate(s) in question to continue the examination. Ejection from the examination centre should only take place in the event of a candidate's conduct causing disruption to other candidates; (d) inform the candidates(s) in question at the end of the examination, that a written report of the incident will be submitted to the relevant NCS Board or EEGC Board.

3.5. Candidates must on request surrender to the invigilator any materials or aids that are reasonably believed by the invigilator not to be permitted. The invigilator can, on request, issue a brief receipt for such articles. The invigilator must include all such materials with his/her report.

3.6 For all other instances of Misconduct: the examiner or person(s) identifying the misdemeanour shall prepare a written report on the alleged incident and send it with any confiscated materials to the Chair of the relevant NCS Exam Board.

4 PROCEDURES FOR INVESTIGATION

4.1 The NCS and/or EEGC Board shall review all reports of alleged cases of misconduct, and shall determine whether there is sufficient evidence of a case to be answered.

4.2 If there are grounds to consider there is a case to be answered then within 10 working days of receiving a report of suspected misconduct, the NCS or EEGC Board will inform the candidate in writing of the allegations that have been made about them, and provide them with a copy of these Regulations. The candidate shall thereby be invited to admit or deny the charge, and be informed that the establishment of a Misconduct Hearing Panel can be dispensed with should they choose not to question the allegations.

4.3 The candidate shall provide their response in writing to the allegations within 10 working days from the date of the Board's letter. If no response is received within 10 days, then a warning letter shall be sent. The candidate's result will remain unconfirmed until they respond to the allegation and the procedures for investigation have been completed.

4.4 Where a candidate admits in writing to the allegations, full details of the case shall be passed to the Chair of the relevant board for a final decision. The candidate shall have the opportunity to include with their response a written statement that may be taken into account by the Chair.

4.5 Where a candidate denies the allegations (in whole or in part) the Board will request that a Misconduct Hearing Panel is convened as soon as possible to formally consider the case.

4.6 The establishment of a Misconduct Hearing Panel under paragraph 4.5 does not preclude the candidate from, at any point, admitting the allegation in writing for action to be taken in accordance with paragraph 4.4, except that the fact of the candidate's initial denial will also be communicated to the Chair of the relevant board to take into account. However, all candidates who have committed misconduct should note that promptly admitting guilt, taking responsibility and expressing contrition for their actions is viewed by the Boards as an important and appropriate step, and that this will be kept in mind whenever any penalty is being determined.

4.7 Decisions will be reached on cases passed to the Chair of a board (in accordance with paragraphs 4.4 and 4.6) as soon as possible, and candidates should normally have received notification of the action to be taken in regard to their case within 15 working days of their letter. In exceptional circumstances a decision may be deferred until the next scheduled meeting of the relevant board, but candidates must be informed of this within 15 working days of their letter; and then be notified of the action to be taken in regard to their case within five working days of the Board's meeting.

5 ESTABLISHMENT OF A MISCONDUCT HEARING PANEL

5.1 A Misconduct Hearing Panel shall be convened if a candidate denies an allegation in whole or in part.

5.2 Proceedings of the Panel shall not be invalidated by reason of the absence of the candidate, provided that the procedure detailed below has been observed.

5.3 The purpose of the Panel is to examine the facts of a case, and the strength and veracity of the evidence being presented. It is to determine on the balance of probabilities whether the allegation of misconduct has been proven, to the satisfaction of the majority of the Panel. Where an allegation is found to be so proven, it is to determine an appropriate penalty.

The Misconduct Hearing Panel shall be constituted with one member from each of the following categories:

- (a) The Chair of the relevant Board (panel chair)
- (b) EEGC Board Chair (or their nominee)
- (c) Another EEGC Board member

5.4 A nominee of the investigating Board will present the details of the allegation and all available evidence to the Panel.

5.7 The candidate shall have the right to be present at all proceedings of the Panel subject to the procedures detailed in paragraph 6, and to present written or oral evidence to the Panel. Such evidence may include

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references attesting to previous good character, although candidates are advised to keep in mind that those approached to supply such references may then subsequently expect the candidate to provide them with details of the outcome of the Hearing.

5.8 The candidate has the right to be accompanied at the Hearing by a companion who may advise, counsel and otherwise support the candidate. The companion however may not act as a witness or address any other person present at the Hearing. If the candidate wishes to be accompanied they must provide the Hearing Panel with the name, address and roles of the nominated person, and the reasons for their involvement, not less than five working days before the hearing.

5.9 In exceptional circumstances candidates may want their case to be presented for them, for example, by a friend, colleague or a representative from their professional body. Candidates can exercise this right to be represented at an Appeal Hearing. The representative will be allowed to submit written evidence before the hearing on behalf of the candidate and address the Panel. If a candidate wishes to be represented by a lawyer then legal representatives should be reminded that the Hearing is not a court of law and the Panel governs its own procedures including the questioning to be allowed of others.

5.10 The investigating Board shall inform the candidate of the scheduled date of the Misconduct Hearing Panel at least 30 days before the date of the Hearing. Documents to be presented at the Hearing will be sent to the candidate not less than 15 working days before the date set for the Hearing, which shall include a list of any witnesses that may be called. Such documents shall include any statement(s) provided by the candidate, whose responsibility it is to ensure any such documents and a list of witnesses they intend to call are received by the investigating Board at least 20 working days before the date set for the Hearing. No documents or witnesses may be presented to or referred to by the Panel, unless details have been circulated in this manner, except with the consent of the Panel, the candidate and presenting officer. All documents will also be circulated at least 10 working days in advance to members of the Panel so that they may familiarise themselves with the evidence before the date of the Hearing.

6 MISCONDUCT HEARING PANEL PROCEDURES

6.1 All proceedings will be strictly confidential.

6.2 At the start of the Hearing the Panel may engage in preliminary deliberations.

6.3 The candidate, their companion, any witnesses, and the presenting officer will be invited into the room and all present shall introduce themselves. The Chair shall ask the investigating Board officer to outline the allegations, and then ask the candidate whether they admit or deny misconduct. If, at this stage, the candidate decides to admit to the allegations in full, the Panel has the authority to proceed immediately to consideration of the penalty to be imposed.

6.4 In all cases other than those covered by 6.3 above, the Chair shall then invite the presenting Board officer to present his/her documentary material and call witnesses. The Chair shall then invite the candidate to question the presenting officer and his/her witnesses, after which members of the Panel may do the same.

6.5 The Chair shall then invite the candidate to present their documentary material and call witnesses in support of their case. The presenting officer may then question the candidate and his/her witnesses, after which members of the Panel may do the same.

6.6 The validity of proceedings shall not be affected by the unwillingness or inability of any party to reply to questions or to appear before the Panel. Where the Panel concludes that an individual is unwilling to reply to a question, it may make reasonable inferences from that refusal.

6.7 The Hearing Panel may, at its discretion and at any time, interrupt proceedings to ask questions, or to instruct the room to be vacated for private deliberations.

6.8 Before they are dismissed, the Chair shall give the presenting officer and the candidate the opportunity to make a closing statement.

6.9 The decisions of individual Panel members shall always be treated as confidential.

6.10 Exceptional or mitigating circumstances shall not be considered by the Panel when determining whether an allegation has been proven, but may be referred to when an appropriate penalty is being discussed.

6.11 Following the meeting the Board shall prepare a written report summarising the proceedings, deliberations, decisions of the Panel and their reasoning, and any penalties to be imposed (including where the decision is that no misconduct has been committed). This shall be sent to the candidate within five working days of the Hearing, and a copy presented to the next meeting of the relevant Board.

7 MISCONDUCT APPEALS PROCEDURE

7.1 Appeals against the decision of an Examining Board or Misconduct Hearing Panel must be received in writing by the relevant Board chairman no later than 10 working days after the date on which the candidate was notified of the decision.

7.2 An Appeals Hearing Panel shall only be convened on the following grounds:

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(a) Where there is evidence of administrative or procedural irregularity in the establishment or conduct of the Misconduct Hearing Panel; (b) Where there is new evidence of extenuating circumstances that could not reasonably have been presented before.

7.3 An independent adjudicator, a member of the EEGC Board who has had no prior involvement in the case, will review the appeal and determine whether there is sufficient evidence for an Appeals Hearing Panel to be convened based on the grounds set out in 7.2.

7.4 The establishment and conduct of an Appeals Hearing Panel will follow the same procedure as set out in these Regulations for a Misconduct Hearing Panel, except that no member of the Panel may have been previously involved with the case.

7.5 The role of the Appeals Hearing Panel will be to hear afresh the evidence presented to the Misconduct Hearing Panel. They may also hear and take into account fresh evidence presented by either side as long as it is circulated in accordance with the provisions of paragraph 5.10.

7.6 The Appeal Hearing Panel shall have the power to confirm, reverse or amend the original decision of the Misconduct Hearing Panel.

8 GUIDELINES FOR PENALTIES

8.1 No candidate whose misconduct has been proven shall be permanently barred from entry to the EEGC however, where misconduct has been proven the details of the case will be passed to the relevant regulatory body (e.g. in the UK the General Medical Council) and the individual responsible for overseeing their training.

8.2 As stated in paragraphs 4.4 and 5.3 of these Regulations, where an allegation of misconduct is sustained, the relevant NCS Board or EEGC Board will decide the appropriate penalty. In making these decisions, all involved are expected to have regard to guidelines based on precedents from similar examinations. There are guidelines for normal circumstances and are not binding, and do not preclude the relevant authority from determining a lesser or more severe penalty to be appropriate should the circumstances warrant this. However, in all cases the responsible authority shall consider: the need to preserve the integrity of the examination; natural justice and consistency with previous penalties; evidence of contrition and an understanding of the gravity of the offence.

8.3 Summary of Standard Penalties

(a) No further action; (b) A written warning; (c) results for the examination to be annulled; (d) candidate barred from entry for a specified period.