

## GEMSAS Application Misconduct Policy and Procedure

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### 1. PURPOSE AND SCOPE

This policy applies to GEMSAS Applicants. It sets out the process that governs investigations into Allegations of Misconduct by GEMSAS Applicants and the procedure that GEMPASS Australia follows to determine any findings of Misconduct and any penalties to be applied. GEMPASS Australia does not tolerate Misconduct and all Allegations of Misconduct will be investigated.

Note: This policy only applies to Applications and Allegations of Misconduct identified during the GEMSAS Application process and the penalties imposed by or on behalf of GEMPASS Australia. This policy is separate to any action that medical schools using GEMSAS may take in response to any allegations of misconduct during or after the application process. Alleged misconduct relating to the GAMSAT exam is governed by policies and procedures set out on the GAMSAT website.

#### 1.1 Key definitions

In this policy:

**Allegation** means any identification, suspicion, claim or assertion;

**Application** means an application for admission made via the GEMSAS system and associated process;

**Balance of Probabilities** means a standard of proof established by evidence that suggests that something was more likely to have occurred than not occurred;

**GAMSAT** means the Graduate Australian Medical School Admissions Test;

**GEMSAS** means the Graduate Entry Medical School Admissions System, an initiative of GEMPASS Australia designed to provide a transparent, fair and equitable admissions process to applicants to GEMPASS;

**GEMSAS Applicant** means a person who has a current application to a GEMSAS medical school made via the online GEMSAS portal;

**GEMSAS Provider** means the organisation contracted by GEMPASS Australia to administer the GEMSAS;

**GEMSAS Policy Committee** means the policy committee established by GEMPASS Australia and tasked with overseeing and advising on strategic matters related to the GEMSAS system;

**GEMSAS Operations Working Group** means the working group established by the GEMSAS Policy Committee to support the work of the GEMSAS Policy Committee by considering operational matters of the management of GEMSAS;

**GEMPASS** means Graduate Entry Medical Program Application and Selection Service;

**GEMPASS Australia** means GEMPASS Australia Limited which is a company limited by guarantee formed by nine Australian medical schools to oversee, administer, and use the GAMSAT and GEMSAS system;

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**Initial Review** has the meaning given to it in clause 4.2;

**Initial Reviewer** has the meaning given to it in clause 4.2(a);

**Misconduct** means any fraudulent, misleading, deceitful or dishonest behaviour or other acts of a GEMSAS Applicant to gain an unfair advantage including cheating, collusion, fabrication, fraud, misrepresentation, breach of confidentiality, plagiarism and the withholding of relevant information;

**Misconduct Panel** means a panel to be convened comprising at least two Directors of the GEMPASS Australia Board and at least one member of the GEMSAS Policy Committee or the GEMSAS Operations Working Group;

**Official Documentation** means documentation from a bona fide independent source including, without limitation, official university transcripts, government issued documentation and letters and other documentation from third parties unrelated to the GEMSAS Applicant.

### 1.2 Related documents

The following documents should also be considered in conjunction with this policy:

- Graduate Australian Medical Schools Admissions Guide
- GEMSAS Appeals Policy and Procedure

In the event of an inconsistency between this policy and the above documents, this policy prevails to the extent of any inconsistency.

## 2. PRINCIPLES OF DEALING WITH ALLEGATIONS OF MISCONDUCT

Allegations of Misconduct will be dealt with on a case-by-case basis having regard to the following key principles:

1. GEMSAS Applicants will be treated fairly and equitably and with due consideration given to their privacy and the principles of natural justice and procedural fairness.
2. GEMSAS Applicants who have had an Allegation of Misconduct made against them will be given written notice of the Allegation of Misconduct and informed of the process in relation to the associated investigation.
3. Each Allegation of Misconduct will be considered on its merits having regard to the facts and circumstances surrounding it and in accordance with this policy. Any previous unsubstantiated Allegation will not be considered in any part of the process.
4. Each Allegation of Misconduct will be handled confidentially, and details of Allegations of Misconduct (including documentation) only shared with others to the extent necessary to complete the steps outlined in this policy.
5. GEMSAS Applicants who are the subject of an investigation following an Allegation of Misconduct will have the right to ask questions about the investigation process and the right to respond to GEMPASS Australia's Initial Review about an Allegation of Misconduct.

## **3. POLICY**

### **3.1 Misconduct**

Examples of Misconduct include, but are not limited to:

- (a) providing false or misleading information in an Application;
- (b) providing fraudulent or altered documents with an Application;
- (c) failing to disclose complete information required as part of an Application;
- (d) cheating in a test; and/or
- (e) providing false or misleading information in an interview associated with an Application.

Whilst this policy is only applicable to GEMSAS, GEMSAS Applicants who are found by the Australian Council for Educational Research (ACER) to have engaged in misconduct as part of their application for, or undertaking of, the GAMSAT may be considered to have engaged in misconduct as part of their GEMSAS Application and be subject to penalties under this policy.

GEMSAS Applicants shall be given the benefit of the doubt in instances where it is uncertain if Misconduct has occurred. GEMPASS Australia shall only investigate Allegations of Misconduct where it is reasonably satisfied, based on the evidence, that Misconduct has occurred.

### **3.2 Penalties for Misconduct**

If a GEMSAS Applicant is found to have engaged in Misconduct, GEMPASS Australia may impose any or all of the following penalties:

- a) cancellation of the Application without refund; and/or
- b) imposition of a ban on future Applications; and/or
- c) commencement of legal action should the Misconduct infringe the rights of GEMPASS Australia or GEMPASS Australia's member medical schools.

## **4. PROCEDURE**

### **4.1 Allegation of Misconduct**

If, during the assessment of an Application, there is reason to suspect Misconduct has occurred then the GEMSAS Provider will undertake further investigations. This may include:

- a) requesting further information or documentation from the Applicant;
- b) contacting the institutions listed on the Application and the institutions who have authored documentation provided by the GEMSAS Applicant;
- c) contacting the organisation responsible for administering a test or other assessment associated with the Application;
- d) taking other reasonable steps to investigate the Allegation of Misconduct as the GEMSAS Provider determines in its discretion.

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Should these investigations determine that no misconduct has occurred, the GEMSAS Provider will delete all records related to their investigations and progress the GEMSAS Application in accordance with the usual process and ensure there is no adverse consequence to the Applicant.

Should these investigations determine that it is reasonably likely that Misconduct has occurred, the GEMSAS Provider will refer an Allegation of Misconduct to the Chair of the GEMSAS Policy Committee.

### 4.2 Initial Review

An initial review of the Allegation of Misconduct and investigations will be undertaken to determine whether the Allegation of Misconduct can be substantiated in accordance with the procedure set out in this paragraph 4.2.

- a) The Initial Review may be undertaken by the Chair of the GEMSAS Policy Committee, or the Chair may delegate another member of the GEMSAS Policy Committee or a member of the GEMSAS Operations Working Group to undertake the Initial Review (**Initial Reviewer**). The Initial Reviewer must not have had any prior involvement with the Applicant.
- b) The Initial Reviewer may, at their discretion, undertake further investigation, including but not limited to seeking further clarity or information from the GEMSAS Provider or any of the impacted medical schools.
- c) Generally, the Initial Review is anticipated to be completed within five (5) business days from the matter being referred to the Chair of the GEMSAS Policy Committee. The Initial Reviewer may extend the time to complete the Initial Review due to the time required for the investigative process to be completed or as otherwise reasonably necessary to fully and properly complete the Initial Review.
- d) If the Initial Reviewer determines that the Allegation of Misconduct **is unable** to be substantiated, they will direct the GEMSAS Provider to progress the GEMSAS Application in accordance with the usual process and ensure there is no adverse consequence to the Applicant as a result of the Allegation.
- e) If the Initial Reviewer determines that the Allegation of Misconduct **is able** to be substantiated, they will refer the matter to the GEMPASS Australia Board.

### 4.3 Notification to Applicant

On the same day that any Allegation is referred to the GEMPASS Australia Board, GEMPASS Australia will send an email to the Applicant, at the email address provided on their Application, notifying the Applicant:

- a) that an Initial Review has determined that an Allegation of Misconduct against them is able to be substantiated and a summary of the findings of the Initial Review which have led to the Allegation of Misconduct;
- b) that the GEMPASS Australia Board will convene a Misconduct Panel to determine the Allegation of Misconduct and any penalties to be imposed;
- c) of the expected timeframe within which a decision of the Misconduct Panel will be made;

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- d) that they have the right to respond to the Allegation of Misconduct by submitting a written response to the Chair of the GEMPASS Australia Board within ten (10) business days of the date of the email (**Response Period**), which the Chair will provide to the Misconduct Panel;
- e) that if they wish for clarification or more information about the Allegation, they must request this within three (3) business days of receiving this Notification.

### **4.4. Applicant's right to respond and/or request information**

The Applicant has the right to request clarification or more information about the Allegation. They must do so within three (3) business days of being notified of the Allegation. GEMPASS will respond within a further three (3) business days. In responding to an Applicant's request for further clarification and/or details of the Allegation of Misconduct, unless required by law, GEMPASS Australia will not be obliged to provide the Applicant with records of its investigations including emails or other correspondence with universities at which the Applicant has studied or claimed to study.

Within the Response Period, the Applicant may provide a response to the Allegation in writing by email to the Chair of the GEMPASS Australia Board.

If the Misconduct Panel receives a written response or official documentation from the Applicant about the Allegation of Misconduct, including admission/s of Misconduct, it will give due consideration to the information provided.

### **4.5 Misconduct Panel**

The Chair of the GEMPASS Australia Board will convene a Misconduct Panel within ten [10] business days of notifying the Applicant about the Allegation of Misconduct. Members of the Misconduct Panel must not have had any prior involvement with the Applicant or any aspect of the investigations regarding the Applicant, including the Initial Review of the Allegation of Misconduct. The Misconduct Panel must:

- a) consider the Initial Reviewer's finding alongside the Allegation of Misconduct and supporting official documentation, and any information and materials provided by the Applicant in accordance with paragraph 4.4;
- b) make a final determination in respect of the Allegation of Misconduct within five (5) business days from the end of the Response Period, provided that the Misconduct Panel may extend its time to make its determination if reasonably required, in which case it must notify the Applicant of the period of extension required and the reason(s) for the extension;
- c) determine:
  - i. if, on the Balance of Probabilities, the Applicant has engaged in conduct that it determines constitutes Misconduct as defined in this policy; and in that case, the penalty that will be imposed on the Applicant; or
  - ii. if, on the Balance of Probabilities, the Applicant has not engaged in conduct that it determines constitutes Misconduct as defined in this policy.
- d) not make a determination of Misconduct unless the decision of the Misconduct Panel is unanimous.

### **4.6 Notification to Applicant (Misconduct Panel determination)**

Within two (2) business days of the Misconduct Panel making its determination, GEMPASS Australia will inform the Applicant of the determination of the Misconduct Panel by email to the Applicant at the email address provided on their Application and:

- a) if the Misconduct Panel determined that Misconduct occurred, GEMPASS Australia will inform the Applicant of any penalties imposed and provide the GEMSAS Provider and all GEMPASS Australia's member medical schools with written notice of the determination and any penalties imposed.
- b) if the Misconduct Panel determines that Misconduct did not occur, GEMPASS Australia will confirm that the GEMSAS Provider will be directed to progress the Application in accordance with the usual process and that there will be no adverse consequences as a result of the Allegation.

### **5. Disputing a Finding of Misconduct**

If an Applicant wishes to appeal a finding of Misconduct, they may do so by following the procedure set out in the GEMSAS Appeals Policy and Procedure.

### **6. Recordkeeping**

All records relating to the Initial Review and the Misconduct Panel's decision will be retained securely by GEMPASS Australia for 7 years.

### **Authorised by**

**GEMPASS Chair**

**19 April 2024**