
The Royal Australasian College of Surgeons and the Australian Society of Plastic Surgeons collaborate in the delivery of the Surgical Education and Training Program in Plastic and Reconstructive Surgery.

Training Regulation: Trainee Misconduct

I. PURPOSE AND SCOPE

This document outlines the Australian Board of Plastic and Reconstructive Surgery (“**the Board**”) regulations and process for:

- 1.1. Misconduct, including investigating allegations of trainee misconduct arising during the Plastic and Reconstructive Surgery (“**PRS**”) Surgical Education and Training (“**SET**”) program.
- 1.2. A trainee who does not:
 - a) complete training program requirements within specified timeframes
 - b) comply with ASPS or RACS direction, including payment of outstanding fees
 - c) satisfy medical registration
 - d) satisfy employment obligations

This regulation also outlines other circumstances that may lead to dismissal from the PRS SET program.

Note: Dismissal for continued unsatisfactory assessment is covered in the Training Regulation: Assessment of Clinical Training.

2. OVERVIEW

Trainees on a pathway to Fellowship are expected to conduct themselves with honesty and integrity and in accordance with their Training Agreement. This regulation defines circumstances for a trainee that may be regarded as misconduct, and how allegations of misconduct are managed.

3. DEFINITION OF MISCONDUCT

- 3.1. Examples of misconduct include but are not limited to:
 - Theft, fraud or misappropriation of funds
 - Falsification of training records, patient documentation or patient treatment
 - Being under the influence of alcohol or illegal drugs while training or fulfilling requirements of the training program
 - Abusive, violent or obscene behaviour

- Discrimination, bullying or harassment (including sexual harassment)
- Disobedience of a reasonable instruction given by a supervisor
- Repeated refusal to carry out instruction that is consistent with the training agreement.
- Abandonment of employment or training post
- Repetitive acts of misconduct for which the trainee has been counseled
- Malicious damage to RACS or ASPS property or reputation

The Board is responsible for investigating allegations of misconduct by a trainee, and penalties for substantiated misconduct, following initial verification of the allegation. Such allegations of misconduct will be investigated promptly, objectively and fairly, in a timely manner.

4. INITIAL INVESTIGATION OF TRAINEE MISCONDUCT

4.1. Documentation and notification of alleged misconduct

Alleged incident(s) of misconduct must be documented and verified as soon as the Surgical Supervisor or Board is made aware of the occurrence. The Surgical Supervisor informs the Regional Training Subcommittee Chair.

4.2. Verification of alleged misconduct

Within 10 working days of the Regional Training Subcommittee Chair being notified of alleged incident(s) of misconduct, they will make initial inquiries to determine whether the allegation can be verified. The Board can only commence an investigation or any disciplinary process based on allegations that have been documented and verified.

If the allegation is verified, the Regional Training Subcommittee Chair will inform the Board.

If the Regional Training Subcommittee Chair is unable to verify their allegation(s) no further action will be taken.

4.3. Notification to the Board and Trainee

4.3.1 Within 10 working days of the Regional Training Subcommittee Chair verifying the allegation, the Board will be notified. The trainee will also be notified that an allegation(s) of misconduct has been made against them, including any documentation provided regarding the allegation.

4.3.2 The Board will nominate a PRS Fellow to conduct a review of the case.

5. OFFICIAL INVESTIGATION

Where the Board informed of an allegation of misconduct, an Official Investigation will be carried out. The duration of the Official Investigation will be 30 working days.

5.1. Conduct of Investigation

In consultation with RACS In-House Council, the Board will nominate a panel of three (3) PRS Fellows (with no prior personal or professional involvement with the trainee), different to the one involved in the initial investigation. They will conduct the official investigation supported by the ASPS CEO or a senior ASPS staff member nominated by the CEO.

The investigators must review all pertinent documentation, and interview witnesses to the alleged misconduct. They must also interview the trainee against whom the allegation of misconduct has been made. Investigators will liaise with RACS Counsel and ASPS Counsel on matters of legal compliance.

A draft report of finding will be prepared by investigators, with recommendations to Board. The Trainee will be provided with a copy of the draft report and is requested to provide a response within 10 working days.

The Trainee's response will be considered before a final report is prepared by the investigators, with recommendations to the Board.

A final report is to be written by the investigators, including the recommendations made to the Board, at the conclusion of the official investigation and issued to the trainee.

5.1.1. Board meeting following conclusion of official investigation

Within 20 working days of conclusion of official investigation, a Board meeting (either in person or by teleconference) will take place at a time convenient to all parties. The trainee must be provided with a minimum of 10 working days' notice of the meeting.

Trainee can present their case to the Board in person or in writing.

The Board may accept the recommendations from the investigators, modify the recommendations or reject the recommendations.

5.2. Penalties For Misconduct

Penalties may include but are not limited to:

- 5.2.1.** Formal censure, warning or counseling
- 5.2.2.** Limitation of progression to the next level of training for up to one year
- 5.2.3.** Suspension of the trainee for a period of up to one year
- 5.2.4.** Prohibition from sitting the Fellowship Examination for a period of up to one year; and/or
- 5.2.5.** Dismissal from the training program (see section 7).

6. DISMISSAL FROM SET PROGRAM FOR TRAINEE MISCONDUCT

6.1. Recommendation for Dismissal

Within 10 working days of a final Board meeting, the Regional Training Chair may make a recommendation in writing to the Board for dismissal from the PRS SET Program. The recommendation must include the reasons for recommending dismissal.

Such a recommendation will be considered at a meeting of the Board within 10 working days of the recommendation. The Board may accept or reject the recommendation.

Within 10 working days of the Board decision, the trainee will be notified in writing whether or not the Board has accepted the recommendation to consider their dismissal.

If the recommendation is accepted, the Board will refer the recommendation for consideration by a Hearing to be constituted as stipulated in this document. In addition, the trainee will be notified in writing of the case for their dismissal from the SET program, and will be provided with copies of any supporting documentation.

6.2. Hearing Panel Meeting

A Hearing Panel to consider the dismissal of the trainee from the SET program will be convened on the first date all Hearing Panel members are available, however no later than 40 working days after the Board has accepted the recommendation. The trainee will be given adequate notice (at least 10 working days, unless agreed otherwise by the trainee) of the date, time, location and composition of the hearing panel. The trainee may attend the hearing in person and/or make written submissions.

The Panel will consist of two (2) PRS consultants and one (1) non-PRS surgical consultant. Members of the Hearing Panel will have had no prior close personal or professional involvement with the trainee.

All documented evidence on the matter will be made available to the Hearing Panel members and the trainee.

The Hearing Panel will consider the documented evidence and any oral submissions from the trainee. Within two working days, the Hearing Panel will advise the Board in writing that either:

6.2.1. The panel agrees with the recommendation to dismiss the trainee from the SET program, including reasons for their recommendation, OR

6.2.2. The panel recommends that the trainee be permitted to remain on the SET program, with or without provisional conditions (see 5.2.), including reasons for their recommendation.

Board Meeting

Within 10 working days of the Hearing Panel, the Board will hold a meeting (either in person or by teleconference) to consider the recommendation(s) made by the Hearing Panel.

If the Board decides to not dismiss the trainee, the trainee will be notified of this decision within 5 working days of the Board meeting. The trainee will also be notified of any additional conditions placed on their training, such as continued probation, additional training time, and/or continuation of the Remedial Action Plan. Other conditions may also be stipulated by the Board.

If the Board decides to dismiss the trainee, a final dismissal letter is issued to the trainee within 5 working days of the Board meeting. The trainee will be provided with a copy of the documentation relied on in approving the recommendation for dismissal. In addition, the Board will notify the Chair of the RACS Board of Surgical Education & Training (“**BSET**”) within 5 working days of their decision to dismiss the trainee.

7 RECONSIDERATION, REVIEW AND APPEAL

Trainees have options available to challenge a decision about their training. Challenges are governed by the RACS Policy “Reconsideration Review and Appeal”, available to download from www.surgeons.org.

8 ASSOCIATED DOCUMENTS

RACS Policy: Dismissal from Surgical Training
RACS Policy: Misconduct
RACS Policy: Natural Justice
RACS Policy: Reconsideration, Review and Appeal (ETA-SET-061)
Training Regulation: Assessment of Clinical Training
Training Regulation: Variations to Training