

DANB's Disciplinary Policy & Procedures



Measuring Dental Assisting Excellence™

Dental Assisting National Board, Inc. (DANB)
444 N. Michigan Ave., Ste. 900
Chicago, IL 60611
Phone: 1-800-FOR-DANB Fax: 1-312-642-3550
Email: danbmail@danb.org Website: www.danb.org

DANB's Policy and Procedures for Disciplinary Review and Appeal

I. DANB's Disciplinary Policy

DANB Certificants, holders of a DANB certificate of competency, examination applicants and examination candidates may be subject to disciplinary review for matters stemming from irregular behavior, fraudulent credentials, and legal, regulatory and credentialing actions as described below. Other individuals who misuse DANB trademarks, compromise the security of DANB exams, or assist others in any behavior that warrants review under this policy may also be subject to investigation and action by DANB.

A. Irregular Behavior

1. Irregular Behavior in Connection with a DANB Examination

The performance of all candidates taking an examination will be monitored. Test center personnel will notify DANB of any candidate who appears to give or receive assistance, or otherwise engages in dishonest or other irregular behavior during the examination.

Any DANB Certificant, holder of a DANB certificate of competency, DANB examination applicant, or DANB examination candidate who

- (a) engages in, or assists another individual to engage in, cheating or other dishonest or irregular behavior,
- (b) copies test questions or answers or permits another to copy test questions or answers,
- (d) removes or attempts to remove examination-related materials from the test center,
- (e) possesses, reproduces, distributes, displays or otherwise misuses a test question or any part of a test question from an examination,
- (f) engages in discussion of specific examination content,
- (g) assists another individual to do any of the above, or
- (h) otherwise violates the security of an examination,

may be subject to disciplinary action, including but not limited to cancellation of examination scores or temporary or permanent denial or revocation of eligibility, certification, or recertification. Any individual who engages in such improper behavior also may be subject to legal action.

2. Failure to Meet Obligations to DANB at Any Time

Any DANB Certificant, holder of a DANB certificate of competency, DANB examination applicant, or DANB examination candidate who

- (a) if subject to DANB's Code of Professional Conduct, violates a provision of DANB's Code of Professional Conduct (the "Code of Conduct"),
- (b) obtains, attempts to obtain, or assists another person to obtain or attempt to obtain, eligibility, admission to a DANB examination, certification, recertification, or a certificate of competency, or attempts to circumvent any DANB requirement, procedure, or fee, by deceptive means, including but not limited to submitting or assisting another person to submit to DANB any document which is falsified or fraudulent or which contains a material misstatement of fact or omits to state a material fact,
- (c) commits any act that infringes on DANB's intellectual property rights, including but not limited to trademark and copyright violations,
- (d) answers "yes" to a Background Information question on a DANB exam application, renewal notice, or other DANB form and fails to resolve the matter to the satisfaction of DANB,
- (e) if an examination applicant, fails to provide proof of meeting examination eligibility requirements within

DANB's Disciplinary Policy & Procedures

sixty (60) days of notification of this requirement by DANB,

- (f) fails to replace a check that was returned to DANB for nonsufficient funds within ninety (90) days of notification by DANB,
- (g) reverses a credit card charge, stops payment on a check, or otherwise revokes payment for services provided by DANB after such services have been rendered,
- (h) fails to cooperate reasonably with a DANB disciplinary investigation, or
- (i) otherwise fails to meet an obligation to DANB,

may be subject to disciplinary action, including but not limited to cancellation of examination scores or denial or revocation of eligibility, certification, or recertification. Any individual who engages in such improper behavior also may be subject to legal action.

B. Fraudulent Credentials

Any DANB Certificant, holder of a DANB certificate of competency, DANB examination applicant, DANB examination candidate, or any other individual who

- (a) manufactures, modifies, reproduces, distributes or uses a fraudulent or otherwise unauthorized DANB certificate, DANB designation, or any other document or designation conferred by DANB by virtue of a contract with a state or other third-party agency or organization,
- (b) otherwise falsely claims to be certified by DANB or to possess credentials or certificates conferred by DANB, or
- (c) assists another individual to do any of the above,

may be subject to disciplinary action, including but not limited to temporary or permanent denial or revocation of eligibility, certification, or recertification. Any individual who engages in such irregular behavior also may be subject to legal action.

C. Legal, Regulatory, or Credentialing Action

Any DANB Certificant, holder of a DANB certificate of competency, DANB examination applicant or DANB examination candidate may be subject to disciplinary action if DANB determines that the he or she is the subject of any of the following:

- Adjudication by a court that the individual is mentally incompetent.
- Adjudication by a court or governmental regulatory body that the individual has violated a federal or state law, rule, or regulation.
- Conviction of or pleading no contest to a felony.
- Loss, suspension, or voluntary surrender of the individual's state dental assisting or other professional registration, license, or other state-recognized credential or authorization to practice as an employee of the federal government or in a state or jurisdiction not requiring registration, licensure, or other recognized dental assisting or other professional employment credential.
- Documented evidence of professional misconduct, including but not limited to unauthorized disclosure of patient information; improper alteration of a patient record; inappropriate or unlawful use of drugs or alcohol; assault, battery, or abuse of a patient; sexual contact with a patient; gross or repeated malpractice or negligence; improper professional financial dealings; or engaging in practice involving contact with a patient or the public while knowingly suffering from a contagious or infectious disease involving serious risk to the public health.
- Documented evidence of professional incompetence, unethical conduct, or moral turpitude, related to the practice of dental assisting.
- Failure to report to DANB in a timely manner adverse legal, regulatory or credentialing action(s).

The sanctions that DANB may impose against any DANB Certificant, certificate of competency holder, examination applicant or examination candidate who is the subject of the foregoing include but are not limited to denial or revocation of eligibility, certification, or recertification.

II. DANB's DISCIPLINARY PROCEDURES

Disciplinary review of DANB Certificants, holders of DANB certificates of competency, examination applicants, examination candidates or other individuals who have violated or are accused of violating a provision of DANB's

Discipline Policy (Section I) shall be conducted according to the procedures described below.

A. Notification and Investigation of Possible Disciplinary Matter

If it comes to the attention of DANB that a DANB Certificant, certificate of competency holder, examination applicant, examination candidate, or other individual subject to review under this policy (the "Respondent") may have engaged in any of the behaviors described in Section I of this policy, DANB shall make a reasonable effort to determine the facts of the matter. If DANB determines that no action should be taken, the matter shall be closed. If DANB determines that there is a reasonable basis to believe that the allegations are true, DANB shall take such actions as are described below in Sections B through F.

B. Notice

DANB shall issue a written notice to the DANB Certificant, certificate of competency holder, examination applicant, examination candidate, or other individual subject to review under this policy about the allegations. The notice shall include the following information:

- a. a statement of the reasons for the proposed disciplinary action;
- b. a statement that the Respondent's behavior leading to the proposed disciplinary action will undergo a review by a Review Panel, which will determine if grounds for disciplinary action exist and what sanctions, if any, should be imposed;
- c. a statement that the Respondent must submit in writing, by Registered Mail or overnight courier, any information that the Respondent wishes to have considered by the Review Panel, so that it is received by DANB's Executive Director within thirty (30) calendar days of the date of the notice of the proposed disciplinary action;
- d. a statement that, should the Respondent not submit in a timely manner any information for consideration by the Review Panel, (i) the Review Panel will review the matter and, at its discretion, determine whether the facts warrant the imposition of disciplinary action and, if so, what disciplinary action should be taken, and (ii) the decision of the Review Panel shall be the final action by DANB on the matter;
- e. a statement notifying that Respondent of his or her right to request a telephone interview with or personal appearance before the Review Panel.

A copy of this DANB's Policy and Procedures for Disciplinary Review and Appeal, which lists possible disciplinary actions that may be taken by DANB, shall be enclosed along with the written notice.

C. Composition and Role of the Review Panel

1. A subcommittee of the Certificant Services Committee of DANB's Board of Directors shall serve as the Review Panel to consider actions by DANB Certificants. The Chair of the Certificant Services Committee shall appoint the Chair of the Review Panel.
2. A subcommittee of the Candidate Services Committee of DANB's Board of Directors shall serve as the Review Panel to consider actions by DANB certificate of competency holders, DANB examination applicants, DANB examination candidates or any other individual who is not a DANB Certificant. The Chair of the Candidate Services Committee shall appoint the Chair of the Review Panel.

D. Disciplinary Review Process and Action

1. If the Respondent requests a telephone interview with or personal appearance before the Review Panel, the Respondent shall be given 30 days written notice of the place, date and time of the interview, unless such notice is waived in writing by the Respondent. The notice shall advise the Respondent of the following:
 - a. The Respondent has the right to be present in person or by telephone (or by videoconference, Internet conference, or other remote conferencing technology, provided that the expense for such participation is borne by the Respondent) and to be represented by legal counsel;
 - b. The Respondent has the right to present written and oral testimony;
 - c. The Respondent has the right to call, examine, and cross-examine witnesses;
 - d. Any written testimony must be received by DANB no later than ten (10) calendar days before the scheduled date of the interview;
 - e. All expenses incurred by the respondent and his or her legal counsel or witnesses in connection with the interview shall be borne by the Respondent.

DANB's Disciplinary Policy & Procedures

2. If the Respondent requests a telephone interview with or personal appearance before the Review Panel, the proceedings shall be subject to the following rules:
 - a. The Respondent shall be given the opportunity to make a statement summarizing his or her position. At the discretion of the Review Panel, the Respondent's legal counsel may make an opening or closing statement. At the conclusion of the Respondent's statement, members of the Review Panel and DANB's legal counsel may ask the Respondent to respond to questions.
 - b. The Respondent may present witnesses who have information reasonably related to the matter at issue, subject to cross-examination by the Review Panel, and any other evidence or material reasonably related to the matter.
 - c. The Review Panel may call witnesses who have information reasonably related to the matter at issue, subject to cross-examination by the Respondent. The Review Panel may request a physical or mental examination of Respondent and may consider the results of such examination and of any independent examination obtained by the Respondent.
 - d. The Review Panel shall not be bound by technical rules of evidence usually employed in legal proceedings, but may consider any evidence it deems appropriate.
3. If the Respondent requests an interview or personal appearance and, without good cause, fails to appear or fails to advise DANB in writing by Registered Mail/overnight courier more than seven (7) calendar days before the scheduled date of the interview or personal appearance before the Review Panel that he or she will not appear, the Review Panel may, at its discretion, notify the Respondent that no further opportunity for a personal appearance shall be provided and that the Review Panel will make its determination based upon the written materials before it.
4. Following the interview or appearance or, if no interview or appearance was requested, at a meeting or telephone conference call convened in a timely manner by the Chair of the Review Panel, the Review Panel shall review all of the documentation submitted concerning the matter. The Review Panel also may, at its discretion, request or receive, and review, additional information. The foregoing shall constitute the Review Record. A copy of the Review Record shall be forwarded to the Respondent and the Review Panel at least ten calendar days before the meeting of the Review Panel.
5. Based on its review of the Review Record, and the Respondent's statement during the interview or appearance, if any, after due and thorough deliberation and upon the affirmative vote of two-thirds of the Review Panel, the Review Panel shall determine whether grounds for disciplinary action exist and, if so, what disciplinary action should be taken.

E. Notification of Review Panel's Determination

The Respondent shall be notified in writing of the Review Panel's action, including the reasons therefor, within thirty (30) calendar days after the Review Panel reaches its decision. If the Review Panel determines that disciplinary action should be taken, the notice shall advise the Respondent of the right to request an Appeal on the matter by submitting a written request for an Appeal by Registered Mail/overnight courier to the Executive Director within thirty (30) days after receipt of the notice. If a timely request for an Appeal is not received, the Review Panel's determination will be deemed final action by DANB.

F. Possible Disciplinary Actions

One or more of the following disciplinary actions may be taken:

- a. issue a nonreportable Advisory Letter;
- b. issue a reportable Letter of Censure;
- c. order the Respondent to retake an examination at a time and place and in a format to be determined by the Review Panel;
- d. invalidate or refuse to release the examination score(s) of the Respondent;
- e. require the Respondent to wait a specified period of time before reapplying to take any DANB examination;
- f. temporarily or permanently revoke the Respondent's eligibility to sit for future examinations;
- g. deny or revoke the Respondent's eligibility, certification, or recertification;

DANB's Disciplinary Policy & Procedures

- h. suspend Respondent's certification for a period of time;
- i. require the Respondent to engage in remedial education and/or training, or to perform community service;
- j. require the Respondent, if Certified, to participate in a mandatory audit of continuing education for a period of time;
- k. place Respondent on conditional status and issue conditional score report and/or certificate until conditions imposed by DANB are met;
- l. publish findings and sanctions in the Certified Press or on DANB's Internet website;
- m. recommend that DANB take legal action against the Respondent;
- n. assess a disciplinary fine; or
- o. take a combination of any of the above actions or such other action that may be deemed appropriate in the particular circumstances.

G. Appeals

Disciplinary actions are subject to appeal pursuant to Section III of this DANB's Policy and Procedures for Disciplinary Review and Appeal.

H. Public Notice of Decisions

After a final adverse disciplinary decision has been reached, DANB will publish the findings and disciplinary action taken in DANB's *Certified Press* and/or on DANB's Internet website. In addition, DANB may notify interested parties of the adverse disciplinary decision and the underlying facts thereof as deemed appropriate by DANB. Such notification may be given to the regulatory boards, dental associations, dental assisting associations, the Respondent's employer, the federal government, and other interested parties, as determined by DANB.

I. Application for Restoration of Eligibility, Certification, or Recertification Following Disciplinary Action

1. A Respondent whose eligibility, certification, or recertification has been denied or revoked by DANB based on a legal, regulatory or credentialing action, as described in Section I.C. of this policy, may reapply to DANB when the situation underlying DANB's decision has been remedied. Unless the Review Panel grants an exception, if the decision was based on conviction of or pleading no contest to a felony, the individual may not apply for examination or certification until all sentences have been served and unless all judgments have been satisfied. If the decision was based on revocation of licensure or authorization to practice, though it is not necessary for the license or authorization itself to be restored, the individual may not apply for examination or certification until the situation underlying the licensure or authorization revocation has been remedied.

2. A Respondent whose eligibility, certification, or recertification has been denied or revoked by DANB for a specified time period for reasons other than legal, regulatory, or credentialing action, as described in Section I.C. of this policy, may reapply to DANB following expiration of such time period. At the time of reapplication, the Respondent will be required to demonstrate that the terms of all sanctions imposed by DANB have been fulfilled, including but not limited to payment of any fines and completion of any remedial education course imposed or required by the Review Panel.

3. Applications following denial or revocation of eligibility, certification, or recertification shall be considered and acted upon at the discretion of DANB.

J. Responsibility for Notification of Address Change

DANB Certificants, certificate of competency holders, and examination candidates are solely responsible for providing timely notification to DANB of changes of address. If a Respondent does not receive notice(s) from DANB related to disciplinary review or action due to his or her failure to timely notify DANB of a change of address, that lack of notification may not be considered as the basis for an appeal or reconsideration of any decision in the matter.

III. DANB's APPEAL PROCESS FOR DISCIPLINARY DECISIONS

Decisions rendered under DANB's Disciplinary Procedures (Section II) are subject to the appeal process described below.

A. Request for an Appeal

A Respondent who has received notice of disciplinary action by the Review Panel may request an Appeal by submitting a written request for an Appeal to DANB, along with a payment of the Appeal Administrative Fee in the form of a check or money order for \$100.00 made payable to DANB. To be valid, the request for an Appeal must be received within 30 calendar days after the date of the notice of decision.

If a request for an Appeal is not received within thirty (30) calendar days of the date of the notice of the decision, the decision of the Review Panel shall constitute the final decision of DANB on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by DANB.

B. Acceptable Grounds for Appeal

The following will be the only grounds considered for granting an Appeal:

- (1) The Respondent provides evidence that the Review Panel committed a procedural error that materially affected the outcome of the disciplinary review process.
- (2) The Respondent provides evidence that the sanctions imposed by the Review Panel are arbitrary and capricious.

C. Appeal Committee Composition

The Appeal Committee shall consist of all DANB Directors who did not participate in prior consideration of the matter under appeal. DANB's Board Chair will chair the Appeal Committee.

D. Appeal Procedures

1. Granting or Denial of Appeal Request

a. A timely request for an Appeal shall be considered by the Chair of DANB's Board of Directors. If the Chair, in his or her discretion, determines that an Appeal should be granted, the Appeal will be heard by the Appeal Committee, at a meeting occurring at the next regularly scheduled meeting of DANB's Board of Directors, or at a special meeting of the Appeal Committee convened for such purpose, occurring within 60 days of receipt of the timely request for appeal.

b. If the Chair of the Appeal Committee denies the Respondent's request for an Appeal, the Appeal Administrative Fee shall be refunded to the Respondent in its entirety within thirty (30) calendar days of receipt.

2. Appeal Process

a. The Appeal Committee shall consider the Review Record, the Notice of Disciplinary Action, and the Respondent's written Request for an Appeal. The Appeal Committee also shall receive and review a statement from the Chair of the Review Panel that took the adverse disciplinary action, which will include the grounds for disciplinary action(s), the sanction(s) imposed, and the rationale for these sanctions. The foregoing shall constitute the Appeal Record.

b. The Respondent may request consideration of evidence, documentation, or written testimony not previously submitted to the Review Panel only if he or she can demonstrate that such evidence, documentation, or written testimony was not available at the time that the Review Panel considered the matter. If the Appeal Committee grants the Respondent's request to submit new evidence, the matter will be referred back to the Review Panel for reconsideration.

c. If the Appeal is being considered due to an alleged procedural error made by the Review Panel, the matter will be referred back to the Review Panel for reconsideration.

d. If the Appeal is being requested due both to an alleged procedural error and to an allegation that the original

DANB's Disciplinary Policy & Procedures

decision was arbitrary and capricious, the matter will first be referred back to the Review Panel for reconsideration and correction of the procedural error and the Respondent will be notified of the Review Panel's determination. If the Respondent continues to believe that the Review Panel's determination is arbitrary and capricious, the Respondent may, within 30 days following receipt of notice of the Review Panel's determination, submit a written request that the Appeal Committee review the Review Panel's decision on these grounds.

e. A record of the Appeal Committee meeting shall be kept. A copy of the Appeal Committee meeting record shall be made available to the Respondent upon payment of the cost of reproduction.

f. The Appeal Committee shall carefully consider all of the information presented in the Appeal Record. After due and thorough deliberation and upon the affirmative vote of a majority of the Appeal Committee, the Appeal Committee shall determine whether to ratify, reverse, or modify the Review Panel's decision or whether to refer the matter back to the Review Panel for reconsideration.

g. If the Appeal Committee reverses the decision of the Review Panel, the Appeal Committee shall determine whether to refund the Appeal Administrative Fee to the Respondent.

3. Notification of Appeal Committee's Determination

The Respondent shall be notified in writing of the decision, including the reasons therefor, within 30 calendar days after the Appeal Committee reaches its decision.

A DECISION BY THE APPEAL COMMITTEE TO RATIFY, REVERSE OR MODIFY AN ADVERSE DECISION SHALL CONSTITUTE THE FINAL DECISION OF DANB ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.

VI. SUBMISSIONS TO DANB

Whenever there is a requirement for a written notice, request or other writing to be submitted to DANB, such writing shall be addressed to the following:

Cynthia C. Durley, MEd, MBA
Executive Director
Dental Assisting National Board, Inc.
444 N. Michigan Ave Suite 900
Chicago, IL 60611
Tel: (866) 357-3262
Fax: (312) 642-8507

All such written notices must be sent by a traceable delivery method, such as FedEx Express delivery or Registered Mail with Return Receipt. Failure of delivery of written communications caused by improper addressing may not be considered as the basis for an appeal or reconsideration of any decision in the matter or the extension of any time period provided for Respondent's reply to a notice from DANB in connection with any disciplinary proceeding.

* * *

The procedures set forth above for the review and appeal of disciplinary matters may be subject to an expedited schedule when deemed necessary by DANB.