

**New York-Presbyterian/Queens
Flushing, NY 11355**

Department/Unit: GRADUATE MEDICAL EDUCATION

POLICY/PROCEDURE

Effective Date: July 7, 1997 Reviewed/Revised: 9/19/08, 11/19/10, 9/16/11, 1/18/13, 9/1/15, 3/23/16 Next Review Date: <u>Biennially</u>	Graduate Staff Evaluation, Disciplinary Procedures & Appeals Policy (Due Process)	Number: 9200-204 Page 1 of 7
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1.0 Purpose

1.1 The purpose of this policy is to:

- a) establish institutional due process procedures for the adjudication of resident/fellow appeals of adverse actions taken by their training program or by the institution. Adverse actions are those actions that could result in resident/fellow dismissal, the non-renewal of the resident's/fellow's graduate staff agreement, or could significantly threaten the resident's/fellow's intended career development.
- b) establish due process procedures for the adjudication of resident/fellow complaints and grievances related to the work environment, program, or faculty.

2.0 Resident/Fellow Supervision and Evaluation

- 2.1 Residents/fellows will be supervised according to the applicable institutional and departmental policies ("Supervision of Patient Care Provided by Post Graduate Trainees" – Policy #9200-211).
- 2.2 For each residency and fellowship program, training will be based on "Competency" driven goals and objectives adopted by the program in accordance with the "ACGME Common Requirements" and the specific RRC program requirements. All residents/fellows shall be evaluated according to the methods and schedule set forth in the "Common Requirements."
- 2.3 The faculty must evaluate resident/fellow's performance in a timely manner during each rotation or similar educational assignment, and document this evaluation at completion of the rotation or assignment.
- 2.4 Residents and fellows must review and sign (in writing or electronically) their evaluations in a timely fashion.
- 2.5 As part of the evaluation process, the program director or his or her designee shall counsel each resident/fellow at least semi-annually. This written and verbal face-to-face semi-annual evaluation will be based on the program's evaluation procedures made available in writing or on-line to residents/fellows at the beginning of the academic year and must include use of evaluation modalities adopted by the program from the ACGME evaluation "tool box" providing multiple evaluation data points (i.e., periodic performance evaluations, written tests, evaluations by other members of the

resident/fellow team, nurses and/or patient evaluations of the resident/fellow, etc). The program director or the program director's designee should provide constructive criticism to residents/fellows about their performance as well as written recommendations aimed at helping the resident/fellow to improve performance. The program director should make every effort to make available to residents/fellows any teaching or counseling resources that could help them correct deficiencies.

- 2.6 Residents/fellows may contest the substance of their evaluations or any documents entered into their file concerning their performance by providing a written explanation to the program director. Such written comments must be included in the resident's/fellow's file.
- 2.7 In accordance with the "Common Requirements", residents/fellows must have unrestricted access to all their files in order to be able to view their evaluations or other documents concerning their performance.
- 2.8 Under no circumstance may a resident's/fellow's evaluation be altered after having been signed by the resident/fellow.

3.0 Resident/Fellow Promotion, Performance Deficiencies, Probation, Suspension and Dismissal.

3.1 Promotion and renewal of graduate staff agreement:

- a) If based upon the resident's/fellow's evaluations, a program director concludes that a resident/fellow is not fit for promotion to the next level of training, then the program director must meet with the resident/fellow and the program director must notify the resident/fellow in writing of the program's intention not to promote the resident/fellow or renew their Graduate Staff Agreement. This must be done no later than 4 (four) months prior to the end of the resident's/fellow's current graduate staff agreement.
- b) If the primary reason(s) for the non-renewal or non-promotion occurs within the 4 (four) months prior to the end of the resident's/fellow's graduate staff agreement, the program director or designee must provide the resident/fellow with as much written notice as circumstances reasonably allow.

3.2 Probation:

- a) If despite recommendations and counseling aimed at performance improvement, periodic evaluations continue to reveal such serious deficiencies in a resident's/fellow's performance that the program director is contemplating non-promotion of the resident/fellow or non-renewal of the resident's/fellow's agreement or dismissal of the resident/fellow from the program, then the program director should place the resident/fellow on probation.
- b) Residents/fellows must be notified verbally and in writing that they are being placed on probation. The program director or designee must personally review the letter with the resident/fellow. The letter must include the reason(s) the resident/fellow has been placed on probation, a plan to correct the resident's/fellow's deficiencies, the resources that will be made available to help the resident/fellow remedy his/her

deficiencies (i.e., faculty tutors, reading assignments, simulation exercises, referral for assessment or counseling at Columbia Presbyterian Occupational Health Service, etc.), the time frame in which the resident/fellow must correct the deficiencies, the term of the probation and the consequences of failing to successfully accomplish the remediation (see Remediation Form). The consequences may include non-promotion to the next level of training, non-renewal of the graduate staff agreement or dismissal.

- c) A copy of the letter notifying the resident/fellow of probation shall be forwarded to the Director of Graduate Medical Education (Designated Institutional Official (DIO)).
- d) At the conclusion of the term of probation, the program director may extend the period of probation but in general the entire probation period should not exceed six months.

3.3 Suspension:

- a) If, in the judgment of the program director or department chair, a resident/fellow is impaired and his/her performance is such that the safety of patients is threatened, the resident/fellow may be suspended immediately pending further review. In such cases, the DIO should be notified prior to the suspension if possible, or, if this is not possible, on the next regular business day following the suspension. Written confirmation of the suspension and planned review shall be given to the resident/fellow as promptly as possible. (Refer to institutional Policy # 8611-052 on "Physician Health & Impairment" for further information.)
- b) If termination of a resident/fellow has been made on the basis of professional misconduct or impairment in spite of rehabilitation or counseling, or breach of the Graduate Staff Agreement, remediation will be waived and termination shall be immediate.

4.0 Appeals Process:

4.1 Adverse Performance Evaluations:

- a) Adverse periodic assignment evaluations should be appealed to the program director or in case of an adverse evaluation by the program director to the chair of the department.

4.2 Probation, Suspension, Dismissal, Non-Promotion, or Non-Renewal of Graduate Staff Agreement

- a) When a resident/fellow receives written notice of probation, suspension, dismissal, non-promotion and/or non-renewal of the Graduate Staff Agreement by the program director, the resident/fellow shall also be notified in writing of the right to appeal such action.
- b) To initiate the appeal process, the resident/fellow shall notify the Director of Graduate Medical Education (DIO). In the instance in which the program director and Director of Medical Education are one and the same the appeals should be made to the Vice

President of Medical Affairs through the Office of Graduate Medical Education. This notice shall be in writing and must be delivered to the Director of Graduate Medical Education within ten (10) working days of the resident's/fellow's notification of the adverse action by the program director. Such notification (to the DIO by the resident/fellow) must include the reason(s) for the requested formal appeal. Failure to notify the Director of Graduate Medical Education (DIO) within the prescribed time frame will terminate the appeal process.

- c) Within ten working days of receipt of the request for appeal, the Director of Graduate Medical Education (DIO) will appoint an ad hoc Appeals Committee and a chair of that Appeals Committee. The DIO will notify the aggrieved resident/fellow and the members of the Committee in writing of the Committee's appointment with a copy sent to the program director and Appeals Committee chair.
- d) The ad hoc Appeals Committee will be chaired by a member of the Graduate Medical Education Committee, and composed of a clinical faculty member and one resident/fellow. The Administrative Director of GME will be present at the Committee hearing to take notes of the proceedings and provide procedural and administrative assistance. All members of this committee must be from a department other than the aggrieved resident's/fellow's program.
- e) The Office of Graduate Medical Education will notify the aggrieved resident/fellow, the members of the ad hoc Appeals Committee, the program director, and the Director of Graduate Medical Education (DIO) of the time and place of the appeal hearing. The hearing shall occur within 30 days of the Committee's appointment.
- f) Under extenuating circumstances in which the aggrieved resident/fellow cannot physically appear before the committee, the chair may allow the aggrieved resident/fellow to give testimony via a conference call.
- g) Prior to the hearing, the program must submit the resident's/fellow's departmental file and any other materials upon which it based its decision to the Office of Graduate Medical Education for copy and distribution to the committee members. Also, prior to the hearing the aggrieved resident/fellow must submit a written summary of the reasons for appealing the adverse action to the ad hoc Appeals Committee along with any documents he/she wishes the Committee to consider. These documents must be submitted at least five (5) working days prior to the hearing.
- h) The process of the hearing will not be rigidly prescribed, except that the aggrieved resident/fellow shall be given the opportunity to appear before the committee. A resident/fellow advocate chosen by the aggrieved resident/fellow other than an attorney may be present at the hearing. The aggrieved resident/fellow should be prepared to present evidence for rescinding the action. The program director should appear and be prepared to present evidence for upholding the action. The hearing shall be confidential and open only to the ad hoc Appeals Committee members and those persons the Committee has asked to appear before it to provide evidence or to those

the Committee has agreed to have appear before it at the request of the aggrieved resident/fellow or program director.

- i) The program director and aggrieved resident/fellow may question witnesses who appear before the ad hoc Appeals Committee. The Administrative Director of GME shall keep written notes of the hearing and deliberations.
- j) The hearing may only be rescheduled under extraordinary circumstances at the discretion of the Director of Graduate Medical Education (DIO) or the chair of the ad hoc Appeals Committee.
- k) The ad hoc Appeals Committee's scope of review shall be to determine whether there was adequate documentation on which to base the adverse action and/or whether the appropriate procedures (e.g. notice of deficiencies, plan of remediation) were followed.
- l) The ad hoc Appeals Committee may decide that the appeal is without merit and thus support the program director's decision; or it may decide that the appeal has merit and may make recommendations including but not limited to a reversal of the adverse action, a period of remediation, probation, or extension of probation. The ad hoc Appeals Committee may also make specific recommendations regarding remediation.
- m) The ad hoc Appeals Committee's decision shall be communicated to the Director of Graduate Medical Education (DIO) within thirty (30) days of the hearing. The preparation of the committee's final report shall be the responsibility of the Chair of the ad hoc Appeals Committee. If in the interest of a thorough review of the resident's/fellow's appeal, additional information is required which cannot be obtained in sufficient time to meet this thirty (30) day time period, that time period may be extended by the Chair of the ad hoc Appeals Committee and the aggrieved resident/fellow will be so notified by the Chair of the ad hoc Appeals Committee.
- n) The Chair of the ad hoc Appeals Committee shall present the ad hoc Committee's report and recommendations to the voting members of the GMEC at the next regularly scheduled GMEC meeting. Non-voting members shall be excused from the meeting. A majority of the faculty and a majority of the resident representatives must be present to constitute a quorum (see Appendix A – "GMEC Voting Members"). Following an opportunity for discussion, the voting members shall make a decision based on a closed ballot. The chair and program director from the same training program as the aggrieved resident shall be excused from the Committee's deliberations and balloting.
- o) The Director of Medical Education (DIO) shall notify the aggrieved resident/fellow and the program director of the GME committee's decision.
- p) The GME Committee's recommendations shall be binding.

4.3 Grievances related to the work environment, interactions with the program director and/or faculty members.

- a) All programs shall provide their residents/fellows with regularly scheduled protected time to caucus and discuss among themselves issues related to their program and the work environment.
- b) Faculty members, program directors, department chairs, and administrative personnel are not to be present during the time when the residents/fellows caucus.
- c) As a result of such meetings, the residents'/fellows' representatives may be charged to raise issues concerning the work environment with the program director, department chair or the GME committee.
- d) The "Resident Work Hours" - Policy # 9200-206 sets forth procedures for grieving issues related to duty hour compliance.
- e) NYHQ's "Code of Conduct"- Policy #1640-003 shall govern the manner in which program directors, faculty, and residents/fellows interact with one another.
- f) When a resident/fellow feels abused by a faculty member and is unable to resolve the issue with the said faculty member, that resident/fellow should discuss their grievance with the program director. When the resident/fellow feels abused by the program director, that resident/fellow should raise the issue with their department chair. In instances where the resident/fellow feels abused by the chair, or feels that their grievance is not likely to get a fair hearing within their department, he or she may appeal to the Director of Graduate Medical Education (DIO) or to the Graduate Medical Education Ombudsperson (see Ombudsperson policy and procedure). In cases where the grievance has to do with the Director of Graduate Medical Education, the appeal may be made to the Chief Medical Officer through the Office of Medical Education.
- g) The Director of Graduate Medical Education (DIO) shall attempt to resolve the grievance. In instances where this cannot be resolved by the DIO and the circumstances are deemed likely to have a significant negative impact on the resident's/fellow's future career, the DIO may convene an ad hoc Grievance Committee.
- h) The ad hoc Grievance Committee shall have the same composition as the ad hoc Appeals Committee and conduct a hearing according to the same procedures.
- i) The ad hoc Grievance Committee may decide that the resident's/fellow's complaint is without merit or it may find that the grievance has merit and make recommendations to remedy the complaint to the program director, department chair or Director of Graduate Medical Education (DIO).
- j) The ad hoc Grievance Committee's recommendations shall be presented to the GME Committee at the next regularly scheduled meeting. After opportunity for discussion,

the eligible voting members of the GME committee shall vote on adopting or rejecting the recommendations by closed ballot.

- k) If adopted by the GME Committee, the recommendations shall be binding.

Anthony Somogyi, M.D.
Director of Medical Education
Designated Institutional Official