**Policy Statement**

This policy establishes procedures leading up to and including disciplinary action. It covers procedures leading up to disciplinary notices and a subsequent right of the Resident to initiate the Appeal Procedures outlined below. This policy and the procedures provided herein comprise the exclusive remedies available to Residents and Fellows (hereinafter “Residents”) appealing disciplinary action, including but not limited to non-renewal of appointment or whose contract of appointment is modified or terminated.

This policy does not and is not intended to constitute an employment contract or alter any House Officer Contract, nor is it intended to create for Residents any legally enforceable contractual right.

**Procedure**

Following the receipt of information that the Resident’s clinical judgment or proficiency in clinical skills, medical knowledge, or patient care necessary to the practice of medicine is deficient or impaired, or the Resident is deficient in any of the six Accreditation Council for Graduate Medical Education (ACGME) core competencies (patient care, medical knowledge, practice based learning and improvement, systems based practice, professionalism, and interpersonal and communication skills) or in the case of misconduct, policy violation, neglect of duty, violation of the House Officer Contract, failure to comply with House Staff Handbook, failure to maintain a valid license to practice medicine, threat to patient safety, or any other malfeasance, misfeasance, or misconduct the following procedures shall be implemented until the deficiency is corrected or the Resident is terminated from the program.

If a department chair, program director, the Graduate Medical Education Committee (GMEC) chair, the Clinical Competing Committee (CCC) or the Senior Associate Dean of GME deems a Resident’s performance or conduct to be deficient and the ordinary elements of the educational program or evaluations appear to be insufficient, the program director should discuss an educational improvement plan or administer a written warning. An educational improvement plan or a written warning is given in the following circumstances:

<table>
<thead>
<tr>
<th>Educational Improvement Plan</th>
<th>Responsible Party</th>
<th>Action</th>
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<tbody>
<tr>
<td></td>
<td>Program Director/ Clinical Competency Committee (CCC)/ Department Chair</td>
<td>Educational Improvement is designed to give the resident notice of need for improvement and to develop a plan towards improved performance. The improvement plan is imbedded in the evaluation framework of each program through evaluations and semiannual assessments. A written record of the date and content of the educational improvement plan, as well as any underlying situation</td>
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precipitating specific improvement shall be maintained in the Resident’s file. This process is not considered discipline and is part of the educational process for all Residents.

Written Warning

Program Director/
Department Chair/
CCC/
GMEC Chair/
Sr Assoc Dean
GME

A written warning is appropriate when prior educational improvement plan has not resulted in the satisfactory performance, needed improvement or when the initial misconduct or performance inadequacy indicates the need for action stronger than an improvement plan. The Program Director shall notify the GME Office of an intent to place the Resident on written warning status. The written warning should note the unacceptable conduct or action that caused the warning, as well as the program’s improvement expectations and corrective action to resolve the deficiency. The Office of the General Counsel will review the drafting of the document(s) related to the written warning prior to distribution to the identified Resident. The Resident shall sign a copy of the written warning. The Resident will receive a copy of the written warning. A copy of the written warning will be placed in the Resident’s file and a second copy will be sent to the Senior Associate Dean of Graduate Medical Education (GME). A written warning is not subject to appeal.

If the educational improvement plan and/or written warning actions fail to resolve an issue, or in cases of serious or repeated misconduct or policy violations, a program director may administer additional discipline as set forth below. In certain cases, and at the discretion of the Program Director, probation, suspension, or termination may be appropriate without an educational improvement plan or written warning. A Resident’s appointment in the residency program may be conditioned, suspended or terminated in the following circumstances:


Probation

Responsible Party
Program Director

Action
Probation is the next step in a series of actions for a Resident (after a written warning). A Resident may also be placed on probation without a written warning if circumstances warrant an immediate probation decision. Probation is appropriate in circumstances that include, but are not limited to: Failure to meet the academic expectations of the training program; a lapse in complying with the responsibilities of the program, the House Staff Contract or GME policies and procedures; or other serious misconduct and/or performance problems.
The Program Director shall notify the GME Office of intent to place the Resident on probation. The Program Director meets with GME Office to:

1. Ascertain the validity of the action with regard to the issues.
2. Construct a statement of probation that outlines the conditions of probation, due process and right to appeal within 14 days of receipt.

The statement shall identify: (1) the areas of deficiency and the reason(s) for the decision to place the Resident on probation; (2) the improvements that must be achieved by the Resident during the probation period (remediation plan or remediation steps); and (3) the length of the probation period, including the date the probation began or will begin and the date by which the Resident will be re-evaluated or his/her status reconsidered or when probation will end if performance has sufficiently improved. The Office of the General Counsel will review the draft of the document(s) prior to distribution to the Resident.

The probation notification shall be in writing and signed by the Resident. Copies of the probation notification shall be placed in the Resident’s file and in his/her administrative file located in the GME Office. The Resident may appeal the decision through the procedures set forth below.

Upon successful completion of probation, the Program Director will notify the Resident and the GME Office and document the completion of probation in the Resident’s file. If the probation is not completed successfully, a Resident may be continued on probation, may be suspended, may repeat a year, may not be renewed or may be terminated.

A probation period occurring during training will be noted in all letters of reference, training verification and credentialing requests.

**Suspension**  
Program Director

A Program Director, may impose immediate summary suspension with or without pay for some or all of the Resident’s duties and training for circumstances including, but not limited to: Violations of policies, rules and laws; misconduct; recurring administrative lapses and/or performance problems, including but not limited to failure to provide patient care consistent with expectations; disregard for patient safety or welfare; failure to work in a collegial manner with others, failure to obtain or renew
Resident’s license for the practice of medicine, or conduct of a Resident that is reasonably likely to threaten the safety or welfare of patients. The time during which a Resident is suspended will not be counted toward completion of the training time required to be eligible for board examination(s).

The Program Director should notify the GME Office of intent to suspend the Resident. The Program Director meets with GME Office to:
1. Ascertained the validity of the action with regard to the issues.
2. Construct a statement of suspension that outlines due process and right to appeal within 14 days of receipt.

The statement shall identify: (1) the reason(s) for the decision to suspend the Resident; (2) the improvements that must be achieved, or issues that must be addressed by the Resident during the suspension; (3) the effective date of the suspension and the end date if the end date is not indefinite due to the need to investigate or for other reasons; (4) any specific duty or requirement the Resident must fulfill in order to return to the program; (5) whether the Resident will be paid while on suspension; and (6) the fact that the suspension will not be counted toward completion of the training time required to be eligible for board examination(s). The Office of the General Counsel will review the draft of the document(s) prior to distribution to the Resident.

The suspension notification shall be in writing and signed by the Resident. Copies of the suspension notification shall be placed in the Resident’s file and in his/her administrative file located in the GME Office. The Resident may appeal the decision through the procedures set forth below.

Upon completion of the suspension, the Program Director will notify the Resident and the GME Office and document the completion of suspension in the Resident’s file. Following a suspension, a Resident may have the suspension continued, may be put on probation, may repeat a year, may not be renewed or may be terminated.

A suspension period occurring during training will be noted in all letters of reference, training verification and credentialing requests.
Termination or Intent Not to Renew, Intent to Repeat a Year

If a Resident is terminated during the appointment period or given a notice of an intent not to renew the appointment period at the end of the Resident’s contract term, or the Resident is given notice of intent to repeat a year, the Resident may appeal the decision through the procedures set forth below.

Program Director shall meet with Vice Dean of the Office of GME to draft the notice of termination, notice of intent not to renew or notice of intent to repeat a year. The Office of the General Counsel will review the draft of the document(s) prior to distribution to the Resident.

The notification of termination, notification of intent not to renew or notification to repeat a year shall be in writing. Copies of the notification shall be placed in the Resident’s file and in his/her administrative file located in the GME Office. The notification of termination or notification of intent not to renew or notification to repeat a year will be noted in all letters of reference, training verification and credentialing requests.

Appeal Procedure

The Appeal Procedures set forth below apply only to a Resident who has received a notice of probation, notice of suspension, notice of termination, notice of intent not to renew, notice of intent to repeat a year or any notice of continuation of probation or suspension.

STEP 1: Resident has fourteen calendar (14) days from the receipt of a notice of probation, notice of suspension, notice of termination, notice of intent not to renew, notice of intent to repeat a year or any notice of continuation of probation or suspension to file an appeal by filing a written letter with the Chair of the Department. Upon receipt of such a letter of dispute, the Chair shall meet with the Resident in an effort to settle the dispute. The Chair of the Department will issue a written statement to the Resident concerning his/her decision. If the Resident fails to file a letter of dispute with the Chair of the Department within the fourteen (14) calendar days of receipt of notice time frame, his/her rights pursuant to this Appeal Procedure shall be deemed to be waived. The Chair of the Department’s written statement of decision does not necessarily resolve this dispute.

STEP 2: If the dispute is not resolved to the satisfaction of the Resident, Resident may appeal the decision of the Chair of the Department within fourteen (14) calendar days of receipt of the Chair’s decision to the Senior Associate Dean of GME. Such appeal shall be considered at a hearing by a Performance Dispute Resolution Committee, an ad hoc committee, prior to the rendering of a final decision by the Senior Associate Dean of GME. If the Resident fails to file a letter of dispute with the Senior Associate Dean of GME within the fourteen (14) calendar day time his/her rights pursuant to this Appeal Procedure shall be deemed to be waived.
Performance Dispute Resolution Committee Members
The Performance Dispute Resolution Committee ("Committee") members shall be comprised of:

1. Two Residents appointed by the Senior Associate Dean to serve on the ad hoc committee. The Residents shall not be from the same Department as each other or the appealing Resident.
2. Two members of USF faculty appointed by the Senior Associate Dean to serve on the ad hoc committee. Such faculty shall not be Program Directors or Chairs of a Department. Each faculty member shall be from different departments.

One member of the Committee shall be selected as chair of the Committee by the members. The Committee shall have the right to recommend adoption, rejection or modification of the discipline to the Senior Associate Dean of Graduate Medical Education.

Hearing Procedures:
1. The Resident will be given written notice of the time and place of the hearing before the Committee.
2. The GME office will provide all material relevant to the Committee, including the Resident’s letter of dispute.
3. The Committee will permit the Resident to submit whatever material the Resident believes to have bearing on the dispute for the Committee’s consideration.
4. All Committee members should be present throughout the hearing. The Resident must personally appear at the hearing.
5. The Resident may bring an advisor, who can assist the Resident, however, the advisor will not be allowed to represent the Resident during the hearing nor participate in the deliberation of the Committee.
6. The Resident may examine his/her residency/fellowship files prior to or at the hearing.
7. The Resident will be afforded an opportunity to make an oral presentation to the Committee at the hearing.
8. Although evidence may be presented, the hearing is not a legal proceeding, does not follow the rules of law or of evidence, and is not subject to laws relating to the conduct of legal proceedings.
9. The Committee will review all material relevant to the dispute, including material presented at the hearing, will interview appropriate individuals (prior to, during or following the hearing), and will issue a written report of findings and a recommendation to the Senior Associate Dean of GME.
10. Because the Committee is advisory to the Senior Associate Dean of GME and is not serving as the institutional official, the Committee report is not subject to appeal, cross-examination or negotiation.

The appellate review shall not be deemed to be concluded until all the procedural steps provided above have been completed or waived by the Resident.

STEP 4: FINAL DECISION
The Senior Associate Dean of GME shall render the final agency decision for the Morsani College of Medicine and the University of South Florida. Notwithstanding any other provision in this policy, no Resident shall be entitled to more than one hearing and one appellate review of the same matter.
Timeline: Recognizing that it is in everyone’s best interest to resolve disputes expeditiously, it is difficult to meet or enforce strict time lines. Every effort will be made to expedite each step in the appeal process, but emphasis will be placed on fairness rather than speed.

APPROVED: 

Senior Associate Dean, Graduate Medical Education/DIO

c:p&p;Housestaff Disp and Appeal Process