



## USF Health – Morsani College of Medicine GME POLICY & PROCEDURE

<b>Title: Corrective Action, Discipline and Due Process</b>	GME-218
Page 1 of 7	

**Scope:** Applies to all University of South Florida Morsani College of Medicine (“USF MCOM”) residents and fellows (“Residents”) in Accreditation Council for Graduate Medical Education (“ACGME”) accredited and non-accredited/non-standard programs as appointed through the House Officer Contract issued by the USF MCOM Graduate Medical Education Office (“GME Office”).

**Background:** In accordance with ACGME Institutional Requirements, the Sponsoring Institution must have a policy that provides Residents with due process relating to the following actions regardless of when the action is taken during the appointment period: suspension, non-renewal, non-promotion, or dismissal [IV.C.1.b)].

**Policy:** This policy establishes procedures leading up to and including corrective and disciplinary action and the 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 appealing academic probation, suspension, non-renewal, non-promotion, or dismissal.

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 is deficient in any of the six 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 Competency Committee (“CCC”) or the Senior Associate Dean of GME/DIO (“DIO”) deems a Resident’s performance or conduct to be deficient, the Program Director should implement an Educational Improvement Plan (“EIP”) or administer a written warning. An EIP or a written warning may be given in the following circumstances:

#### **EDUCATIONAL IMPROVEMENT PLAN**

##### Action

An EIP is designed to give the Resident notice of need for improvement and to develop a plan towards improved performance. The EIP is imbedded in the evaluation framework of each program through evaluations and semiannual assessments.

<b>Title: Corrective Action, Discipline and Due Process</b>	GME-218
Page 2 of 7	

A written record of the date and content of the EIP, as well as any underlying situation precipitating specific improvement shall be maintained in the Resident's file. This process is not considered discipline and is part of the ordinary educational process for all Residents. An EIP is not subject to appeal or grievance.

## **WRITTEN WARNING**

A written warning is appropriate when a prior EIP has not resulted in satisfactory performance or the needed improvement or when the initial misconduct or performance inadequacy indicates the need for action stronger than an EIP. The Program Director shall notify the GME Office of an intent to issue a written warning to the Resident. 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 document(s) prior to distribution to the Resident. The Resident shall sign a copy of the written warning to acknowledge receipt. 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 DIO. A written warning is not considered discipline and is part of the ordinary educational process for all Residents. A written warning is not subject to appeal or grievance.

If the EIP and/or written warning corrective actions fail to resolve an issue, or in cases of serious or repeated misconduct or policy violations, a program director may administer discipline as set forth below. In certain cases, and at the discretion of the Program Director, academic probation, suspension, non-promotion, non-renewal or dismissal may be appropriate without an EIP or written warning. A Resident's appointment in the residency program may be conditioned, suspended or terminated in the following circumstances:

## **ACADEMIC PROBATION**

Academic 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, GME policies and procedures, USF policies, policies of Affiliated Institutions, or other serious misconduct and/or performance problems.

The Program Director shall notify the GME Office of intent to place the Resident on Academic 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 that outlines the conditions of Academic Probation, due process and right to appeal within fourteen calendar days of receipt of the Notice of Academic Probation.

The statement shall identify: (1) the areas of deficiency and the reason(s) for the decision to place the Resident on

<b>Title: Corrective Action, Discipline and Due Process</b>	GME-218
Page 3 of 7	

Academic Probation; (2) the improvements that must be achieved by the Resident during the Academic Probation period (remediation plan or remediation steps); and (3) the length of the Academic Probation period, including (i) the date the Academic Probation began and will end; or (ii) the date by which the Resident will be re-evaluated or his/her status reconsidered. The Office of the General Counsel will review the draft document(s) prior to distribution to the Resident.

The Academic Probation notification shall be in writing and signed by the Resident. Copies of the Academic 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 Academic Probation, the Program Director will notify the Resident and the GME Office and document the completion of Academic Probation in the Resident's file. If the Academic Probation is not completed successfully, a Resident may be continued on Academic Probation, may be suspended, dismissed, non-renewed or non-promoted.

Academic Probation occurring during training will be noted in all letters of reference, training verification, and credentialing requests.

## **SUSPENSION**

A Program Director may impose immediate 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 or others. 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. Ascertain the validity of the action with regard to the issues.

<b>Title: Corrective Action, Discipline and Due Process</b>	GME-218
Page 4 of 7	

2. Construct a statement that outlines the suspension, due process and right to appeal within fourteen calendar days of receipt of the Notice of Suspension.

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, be put on probation, dismissed, non-renewed or non-promoted.

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

## **DISMISSAL, NON- RENEWAL OR NON- PROMOTION**

A Program Director may initiate a dismissal, non-renewal or non-promotion recommendation 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 or others.

The Program Director shall consult with the DIO to draft the notice of dismissal, notice of non-renewal or notice of non-

<b>Title: Corrective Action, Discipline and Due Process</b>	GME-218
Page 5 of 7	

promotion. The Office of the General Counsel will review the draft of the document(s) prior to distribution to the Resident.

The notification of dismissal, non-renewal or non-promotion 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 dismissal, non-renewal or non-promotion will be noted in all letters of reference, training verification and credentialing requests.

If a Resident is dismissed, non-renewed or non-promoted, the Resident may appeal the decision through the procedures set forth below.

Notwithstanding the above, any dismissal for failure to pass Step III may not be appealed.

## **APPEAL PROCEDURE**

The Appeal Procedures set forth below apply only to a Resident who has received a written notice of academic probation, suspension, dismissal, non-renewal, or non-promotion.

STEP 1: Resident has fourteen calendar days from the receipt of a notice of academic probation, suspension, dismissal, non-renewal, or non-promotion to file an appeal by filing a written letter of appeal regarding the decision to the DIO, with a copy to the Program Director. The written letter of appeal must include all documentation or objective evidence that the resident wishes to have considered during the appeal process.

STEP 2: An ad hoc appeal committee ("Appeal Committee"), consisting of at least three people who are either core faculty, program directors or chairpersons, will be designated by the DIO. Appeal Committee members cannot be within the same specialty division as the Resident and will meet to review documents and hold an Appeal Meeting with the Resident within fourteen calendar days following the appointment of the Appeal Committee.

### **Appeal Meeting Procedure:**

1. The Resident will be given written notice of the time and place of the Appeal Meeting with the Appeal Committee.
2. The GME office will provide all material in the Resident's file to the Appeal Committee, including the Resident's letter of appeal.
3. The Appeal Committee will review the documentation or objective evidence that the Resident

<b>Title: Corrective Action, Discipline and Due Process</b>	GME-218
Page 6 of 7	

- included in the written letter of appeal.
4. The Appeal Committee will permit the Program Director to attend the Appeal Meeting or speak to the committee prior to the appeal meeting.
  5. All Committee members should be present throughout the Appeal Meeting. The Resident must appear at the Appeal Meeting.
  6. The Resident may bring an advisor to the Appeal Meeting, who can assist the Resident, however, the advisor will not be allowed to represent the Resident during the Appeal Meeting, address the Appeal Committee directly or observe the deliberation of the Appeal Committee.
  7. The Resident may examine his/her residency/fellowship file prior to the Appeal Meeting.
  8. The Resident may make an oral presentation to the Appeal Committee at the Appeal meeting.
  9. Although evidence may be presented, this meeting 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.
  10. A member of the GME Office shall be present during the Appeal Meeting
  11. After presentation of evidence, the Appeal Committee will meet in closed session to consider the appeal. The Appeal Committee may recommend upholding or rejecting the discipline, or may recommend alternative actions, which may be more or less severe than the initial action.
  12. The Appeal Committee's recommendation must be submitted to the DIO within fourteen calendar days of the Appeal Meeting and copied to the GME Office.
  13. Because the Appeal Committee is advisory to the DIO and is not serving as the institutional official, the Appeal Committee's written recommendation is not subject to appeal, cross-examination or negotiation.

**STEP 3.** The DIO will review the Appeal Committee's recommendations and make the following determinations:

1. Whether the trainee was provided due process according to this policy,
2. Whether applicable University, Department, and/or Health System policies were fairly and appropriately applied, and
3. Whether there is sufficient evidence to support the discipline or other action recommended by the Appeal Committee.

The DIO may uphold or reject the initial discipline, may uphold or reject other actions recommended by the Appeal

<b>Title: Corrective Action, Discipline and Due Process</b>	GME-218
Page 7 of 7	

Committee, or may recommend alternative actions. The decision of the DIO will be submitted to the Resident and the Program Director within fourteen calendar days of receipt of the Appeal Committee's recommendation. The decision of the DIO is final and not subject to further appeal.

Notwithstanding any other provision in this policy, no Resident shall be entitled to more than one appeal and one Appeal Meeting of the same disciplinary action.

Timeline: Recognizing that it is in everyone's best interest to resolve disputes expeditiously, it is difficult to meet or enforce strict timelines. 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

**EFFECTIVE DATE: 1/01/99**

**REVIEWED, REVISED, APPROVED:** 07/30/2003; 6/05; 2/14/07; 8/2008; 3/2010; 9/2011; 10/2012; 6/13/18, 6/10/20; 2/10/21