

## **Graduate Medical Education Grievance Policy**

### **1. Exclusivity of Policy**

This policy constitutes the sole and exclusive institutional rights of review and appeal with respect to non-reappointment and disciplinary action related to residents enrolled in graduate medical education programs sponsored by GRCSOM-LAUMC. This policy supersedes and preempts any other review and appeal rights of residents with respect to disciplinary action. For the purposes of this policy, a resident is defined as a non-faculty graduate medical education trainee in a graduate medical education program sponsored by GRCSOM-LAUMC.

### **2. Resident Reappointment and Non-reappointment**

Residents joining training programs are appointed on an annual basis. Each resident shall be considered for reappointment on an annual basis. Each program is required to establish and maintain a process for evaluation of the academic performance and professional ethics of each resident sufficient to permit annual appraisal. Each program shall maintain written documentation of resident evaluations.

- a.** It is the responsibility of the program and the Program Director to annually determine the suitability of each resident for reappointment based upon institutional policies. This recommendation is made with the understanding that the recommended reappointment is contingent upon satisfactory completion of the program's requirements for promotion within the current year of training. The Program Director shall forward this recommendation to the Assistant Dean for Graduate Medical Education no later than one hundred and forty (120) calendar days prior to completion of the resident's current appointment period. Residents shall be notified by the Program Director of the program's recommendation in this matter no later than ninety (90) calendar days prior to the completion of their current contract. If the decision is to reappoint, the resident will usually be offered a training agreement no later than fifteen (15) calendar days prior to the completion of the resident's current appointment period. The effective date of the reappointment normally will be the day following the expiration of the resident's current appointment. This date and/or the date of offering the reappointment, however, may be delayed if the resident has an unreasonable number of outstanding medical records, an employee health screen which has not been completed or if there are outstanding debts owed to the hospital.
- b.** If, the Program Director's recommendation decision is not to reappoint a resident, the Institutional Official shall be notified of this recommendation one hundred and twenty (120) calendar days prior to the completion of the resident's current contract. If, after discussion, this recommendation is implemented, the resident will be notified at least ninety(90) days prior to the expiration of his/her current training agreement. The resident may appeal the decision to not re-appoint as set out in section 6 below.
- c.** If reasons for non-reappointment occur within the final 120 days of the resident's current appointment, the resident shall be notified of this non-reappointment decision with as much written notice of the intent to not renew as the circumstances will reasonably allow prior to the

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end of the current training agreement. The resident may appeal the decision to not re-appoint as set out in section 6 below.

### 3. Probation

Actions related to modifying the method of training, the timing of educational activities and intensification or lengthening of training or evaluation processes, commonly referred to as "probationary periods", do not constitute disciplinary actions. Probationary periods are not considered to be actions, which could significantly threaten a resident's intended career development for purposes of appeal under section 6 below.

### 4. Adverse Action

"Adverse action" includes any of the following actions by the Hospital/residency program:

- a. revocation or suspension of a right or a privilege
- b. censure
- c. written reprimand
- d. required performance of a remedial education course
- e. restriction or non-renewal of a right or a privilege
- f. denial of a right or privilege
- g. termination or nonrenewal of a contract
- h. non-promotion to the next level of training
- i. withholding pay while investigating gross misconduct on the part of the resident
- j. filing of a formal complaint regarding any violation of law, regulation or bylaws

### 5. Initiation of Adverse Action

The adverse action process may be instituted by the relevant Program Director following discussion with and approval of the Department Chair. The program Director shall give written notice of the action or proposed action and the reason for it to the affected resident. The resident shall also be notified of his/her right to a hearing as described below, in the event the Department Chair recommends one or more of the following adverse actions:

- a. revocation or suspension of a right or privilege
- b. suspension of the resident
- c. non-renewal of the resident agreement
- d. non-promotion to the next level of training

In the event that the adverse action is one which does not entitle the resident to a hearing, the action of the Department Chair shall be the final decision of the Hospital / training program in the matter.

### 6. Disciplinary Actions

Disciplinary actions are those actions taken by the sponsoring institutions, which limit, suspend or terminate the privileges of the resident to participate in the educational program provided by the residency program or actions which could significantly threaten the resident's intended career development. GRCSOM-LAUMC GME office is empowered to independently investigate

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any circumstances leading to the possibility of disciplinary action. The institution of disciplinary actions is independent of and not contingent upon any resolution of the matter in the judicial system. The Institutional Official and the GRCSOM-LAUMC Human resources office shall be notified prior to the institution of disciplinary actions. Grounds for disciplinary action may include, but are not limited to:

- a.** professional incompetence, or conduct that might be inconsistent with or harmful to good patient care or safety, lower than the standards of the Medical/Professional Staff, or disruptive to Hospital operations
- b.** conduct which calls into question the integrity, ethics or judgment of the Graduate Trainee, or which could prove detrimental to the Hospital's patients, employees or operations
- c.** violation of the bylaws or policies and procedures of the Professional/Medical Staff of the Hospital
- d.** misconduct in science
- e.** Failure to perform duties as set by the respective residency programs.

The resident shall be notified in writing of disciplinary actions taken. Disciplinary actions taken may remain in effect pending final resolution of any subsequent grievance process.

### **7. Appeal Procedure**

- a.** In the event that the proposed adverse action is one which entitles the resident to a hearing, the Resident shall also be advised of his/her right to appear and to introduce witnesses or evidence, subject to the limitations set forth in section (d) below. The resident shall have thirty days after such notice to request a hearing to be submitted in writing to the office of graduate medical education. Failure to do so shall constitute a waiver. In the event that the resident does not make a timely request for a hearing, the action of the Department Chair shall be the final decision of the hospital/residency program in the matter.
- b.** If the resident requests a hearing, the Assistant Dean for Graduate Medical Education shall appoint a hearing committee which shall consist of not less than three full time faculty members at the rank of assistant Professor or above to include the chief of staff of the hospital. One member shall be a resident at the PGY-2 level or higher. No person who has actively participated in the initiation of the adverse action or proposed action shall be appointed to the hearing committee.
- c.** The Department Chair whose adverse action or proposed action occasioned the hearing or his/her designee shall have the initial obligation to present evidence in support of the action or proposed action. Thereafter, the resident requesting the hearing shall have the burden of providing by clear and convincing evidence that the action or proposed action was arbitrary or unsupported by substantial evidence.
- d.** The hearing need not be conducted strictly according to rules of law relating to the examination of witnesses or the presentation of evidence. The hearing committee shall consider such evidence as reasonable persons are accustomed to rely on in the conduct of serious affairs. The hearing committee may take notice of any general, technical, medical

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or scientific fact within the specialized knowledge of the committee, and shall decide all other procedural matters not specified in this policy. The resident may not retry, and the hearing committee and the Hospital/residency program may rely on and accept as true, any finding of fact contained in a final decision by the applicable licensing, certifying or regulatory authority, or by LAU School of Medicine in any investigation it conducts, provided the resident was a party to the proceeding in which the finding of fact was made.

- e. The hearing committee shall issue a written report of its findings of fact and recommendations concerning what adverse action(s), if any, should be taken by hospital/GME. A copy shall be sent to the affected resident, the relevant Department Chair, the Chief Medical Officer and the Dean of the Medical School.

### **8. Appellate Review**

The resident or the Department Chair may request that the Board of the Hospital conduct an appellate review of the matter, or the Board may conduct a review on its own initiative. The Board may provide for such review by an independent appellate committee appointed for the purpose. The committee shall consist of at least three faculty members at the rank of associate Professor or Professor, and any additional member the Board sees fit. No member of a previous committee involved in the same review shall be allowed to sit on the appellate committee. If neither the resident nor the Department Chair request appellate review, and the Board do not decide to conduct such review on its own initiative, the decision of the hearing committee shall be the final decision of the Hospital/ training program in the matter.

The proceedings of the Board appellate review committee shall be based on the record of the hearing, the report of the hearing committee and any written response which the affected resident and the relevant Department Chair wish to make. At the sole discretion of the Board, it may also consider new or additional information. If it does so, it shall share this information with the affected resident, the Department Chair and the hearing committee and give them the opportunity to respond.

The Board appellate review committee shall issue its decision in writing.

A copy shall be sent to the affected resident, the Assistant Dean for Graduate Medical Education, the Chief Medical Officer and the relevant Department Chair, the Program Director and the Dean of the School of Medicine. It shall be the final decision of the Hospital in the matter.

### **9. Summary Adverse Action**

The relevant Department Chair and/or program director with the concurrence of the GME and Chief Medical Officer, if available, may make an immediate summary suspension or take other immediate summary adverse action whenever such action is deemed necessary to maintain acceptable standards of care, safety, operation, integrity or ethics at the Hospital/ residency program. The person effecting such adverse summary action shall send a written report of such action and the reason(s) thereof to the resident involved, the Assistant Dean for the Graduate Medical Education and the Chief Medical Officer within three days of taking action. The resident may request review of this action within thirty days. Upon such request the Assistant Dean for the Graduate Medical

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Education shall appoint a committee to review the summary suspension or other action. Within fourteen days of the resident's request, the committee shall decide whether the action appears to be substantiated by fact and is reasonable and should be continued in force, or whether it should be lifted. The committee shall send prompt written notice of its decision to the resident involved the relevant Department Chair, the Assistant Dean for Graduate Medical Education and the Chief Medical Officer.

Following due deliberation, the appeals committee may uphold, revoke or modify the disciplinary action at its discretion. The appeals committee shall forward its decision to the program director and resident within 14 calendar days after the completion of the hearing. The decision of the appeals committee is final and not subject to review or appeal.