

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/fellows enrolled in Graduate Medical Education programs sponsored by GRCSOM-LAUMC. This policy supersedes and preempts any other review and appeal rights of residents/fellows with respect to disciplinary action. For the purposes of this policy, a resident/fellow is defined as a non-faculty graduate medical education trainee in a Graduate Medical Education (GME) program sponsored by GRCSOM-LAUMC.

2. Resident/Fellow Promotion(Reappointment) and Non-reappointment

Residents/Fellows joining training programs are appointed on an annual basis. Each resident/fellow 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, the Program Director and the Clinical Competency Committee (CCC) to annually determine the suitability of each resident/fellow for reappointment/promotion based upon the promotion criteria set by individual residency/fellowship programs. The Program Director shall forward this recommendation to the Assistant Dean for Graduate Medical Education no later than ninety calendar days (90 days) prior to completion of the resident/fellow current appointment period. Residents/Fellows 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/fellow will usually be offered a training agreement at the start of the next academic year. The effective date of the reappointment normally will be the day following the expiration of the trainee's current appointment.
- b.** If the resident/fellow has an unreasonable number of outstanding medical records or if there are outstanding debts owed to the university/hospital, the date of the reappointment, may be delayed.

If, the Program Director's recommendation is not to reappoint a resident/fellow, the Assistant Dean for GME shall be notified of this recommendation ninety (90) calendar days prior to the completion of the trainee's current contract. If, after discussion, this recommendation is implemented, the trainee will be notified of the decision immediately.

The resident/fellow shall be notified of this non-reappointment decision via a written notice of the intent not to renew, as the circumstances will reasonably allow, prior to the end of the current training agreement. The resident/fellow may appeal the decision not to re-appoint as set out in section 6 below.

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3. Probation

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

4. Disciplinary Actions

Disciplinary actions are those actions taken by the sponsoring institutions, which limit, suspend or terminate the privileges of the resident/fellow to participate in the educational program provided by the GME programs or actions which could significantly threaten the trainee's intended career development. GRCSOM-LAUMC GME office is empowered to independently investigate 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 SOM Dean, Assistant Dean of GME, Program Director and the LAUMCRH CMO office shall be notified prior to the institution of disciplinary actions.

- Grounds for disciplinary action(s) may include, but are not limited to:
 - 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
 - conduct which calls into question the integrity, ethics or judgment of the resident/fellow, or which could prove detrimental to the hospital's patients, employees or operations
 - violation of the bylaws or policies and procedures of the Professional/Medical Staff of the hospital
 - misconduct (medical or professional)
 - failure to perform duties as set by the respective residency programs

The resident/fellow shall be notified in writing of disciplinary actions taken. The GME office shall give written notice of the action or proposed action and the reason for it to the affected resident/fellow, copying the Program Director, Department Chair and Dean of the SOM. The resident/fellow shall also be notified of his/her right to a hearing as described below. Disciplinary actions taken may remain in effect pending final resolution of any subsequent grievance process.

- Below are some of the disciplinary actions that may be undertaken:
 - Revocation or suspension of a right or a privilege
 - Written reprimand
 - Restriction or non-renewal of a right or a privilege
 - Denial of a right or privilege

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- Non-promotion to the next level of training
- Extension of the training period
- Withholding pay while investigating gross misconduct on the part of the resident/fellow
- Termination or nonrenewal of a contract
- Filing of a formal complaint regarding any violation of law, regulation or bylaws

5. Appeal Procedure

- a. In the event that the proposed disciplinary action entitles the resident/fellow to a hearing, the resident/fellow shall also be advised of his/her right to appeal and to introduce witnesses or evidence, subject to the limitations set forth in section (d) below. The resident/fellow shall have thirty days after such notice to request a hearing to be submitted in writing to the GME office. Failure to do so shall constitute a waiver. In the event that the resident/fellow does not make a timely request for a hearing, the action of the GME shall be the final decision.
- b. If the resident/fellow requests a hearing, the Assistant Dean for GME shall appoint a Hearing Committee (ad hoc) which shall consist of at least three full time faculty members at the rank of assistant Professor or above and to include the LAUMCRH CMO. One member could be a resident/fellow 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 Program Director shall have the initial obligation to present evidence in support of the disciplinary action. Thereafter, the resident/fellow 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 may take notice of any general, technical, medical or scientific fact within the specialized knowledge of the committee, and shall decide on all other procedural matters not specified in this policy. The resident/fellow may not retry. The Hearing Committee and the GME office 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.
- e. The Hearing Committee shall issue a written report of its findings of fact and recommendations concerning what disciplinary action(s) and submit it to the GME office. In turn, the GME office shall communicate the decision to the affected resident/fellow, the relevant Program Director, Chair, LAUMCRH CMO and the SOM Dean.

6. Appellate Review

The resident/fellow may request an appellate review of the matter. The Dean's office with the CMO office 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 members as deemed fit. No member of a previous committee involved in the same review shall be allowed to sit on the appellate committee. If the resident does not request appellate review, the decision of the Hearing Committee shall be the final

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decision in the matter.

The proceedings of the 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/fellow and the relevant Program Director wish to make. At the sole discretion of the Appellate Committee, it may also consider new or additional information. If it does so, it shall share this information with the affected resident/fellow, the Program Director and the Hearing Committee and give them the opportunity to respond.

Following due deliberation, the Appellate Committee may uphold, revoke or modify the disciplinary action at its discretion. The Appellate Committee shall issue its decision in writing and forward it to the GME office, which in turn shall inform the resident/fellow, Program Director, Chair, CMO and SOM Dean within 14 calendar days after the completion of the hearing. The decision of the Appellate Committee is final and not subject to review or appeal.

7. Summary Adverse Action

The relevant Program Director with the concurrence of the GME, SOM Dean, Chair and CMO, 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 and Residency/Fellowship program. The person effecting such adverse summary action shall send a written report of such action and the reason(s) thereof to the resident/fellow involved, the Assistant Dean for the GME and CMO within three days of taking action. The resident/fellow may request review of this action within thirty days. Upon such request, the Assistant Dean for the GME shall appoint a committee to review the summary suspension or other action. Within fourteen days of the trainee's request, the committee shall decide whether the action appears to be substantiated by fact and is reasonable and should be enforced, or whether it should be lifted. The committee shall send prompt written notice of its decision to the GME office who in turn shall communicate the decision with the resident involved the relevant Program Director, Chair, CMO and SOM Dean.