

PROCEDURES FOR HEARING AND REVIEW OF DISCIPLINARY ACTIONS INVOLVING RESIDENTS

STANDARDS OF CONDUCT

All residents participating in the training programs of the George Washington University Medical Center shall achieve standards of conduct in accordance with highest ethical standards and the code of professionalism delineated throughout this Manual as well as those set forth by the profession, including those of the clinical department and affiliated hospitals and institutions to which resident is assigned. Residents shall refrain from any conduct prejudicial to good order, efficiency, or the provision of high quality care to patients at GWUMC or its affiliated institutions as appropriate.

DISCIPLINARY ACTIONS

Disciplinary action may be undertaken in response to several concerns regarding residents, including failure to meet resident responsibilities or standards of conduct, concerns regarding professional competence, failure to progress in knowledge base or meet levels noted for improvement. The Program Director is the ultimate authority in undertaking the following disciplinary actions as he/she deems appropriate: formal warning, probation, suspension preparatory to termination, non-promotion to the next level of training, non-reappointment to the training program for the following year. Program Directors are to maintain and be able to produce written documentation of the problem(s) that have led to disciplinary action.

CALCULATING DEADLINES

In calculating the deadline for submitting requests under this article and in scheduling meeting times, if the deadline falls on a Saturday, Sunday, or University holiday or closure due to inclement weather, the deadline shall be the next business day.

RESIDENT NOTIFICATION

For each of the disciplinary actions described above, notification of the resident of the disciplinary actions taken and the reasons for the same shall be provided both verbally and in writing by the Program Director or his/her designee. If the disciplinary action involves probation, suspension, non-promotion to the next level of training, or non-reappointment for reasons related to professional incompetence, the resident shall also be provided a copy of these Procedures for Appeal and Review of Disciplinary Actions Involving Residents with the written notification. The written notification shall be sent by regular and certified mail to the address on file for the resident at the GME office, which is the resident's address of record.

LEVEL 1: INFORMAL MEDIATION

APPLICABILITY OF HEARING PROCESS

The informal mediation mechanism applies only to residents who have been placed on probation.

INITIATION OF INFORMAL MEDIATION

Any resident who believes he/she has been placed on probation improperly may file a written statement of dispute with the GME Office. This statement must be filed within fourteen (14) days following receipt of written notice of probation and must describe the specific elements of the probation notice that are in dispute. If the resident fails to deliver to the GME Office a written statement within the specified time period, he/she is considered to have waived the right to appeal the probation.

Upon filing the statement of dispute, the resident will be given the opportunity to select an ombudsman from a panel of potential ombudsmen selected by the GME Director. The panel will consist of at least three (3) members of the Medical Center community.

INFORMAL MEDIATION PROCESS

The ombudsman selected by the resident shall discuss the details of the probation with the resident, the Program Director and other appropriate individuals in the department in an effort to resolve the dispute. If the dispute is not resolved within fifteen (15) working days of receipt of the statement of dispute the ombudsman will inform the resident in writing that the dispute has not been resolved and inform the resident of his/her right to appeal to the Hearing Committee. If the ombudsman determines that time beyond fifteen (15) working days is required, the resident will be notified accordingly. In no event will there be an extension of time beyond thirty (30) days after receipt of the written statement of dispute.

LEVEL 2: RESOLUTION BY HEARING COMMITTEE

APPLICABILITY OF HEARING PROCESS

The hearing mechanisms set forth below apply to residents on probation who have completed Informal Mediation (Level 1), residents on suspension preparatory to termination and residents subject to non promotion to the next level of training or non-reappointment to the training program for the following year for reasons related to professional incompetence. Non-reappointment for reasons unrelated to professional incompetence, such as failure to obtain proper licensure, is specifically excluded from the hearing mechanisms.

INITIATION OF HEARING

Within fourteen (14) days following receipt of written notice of suspension preparatory to termination, non-promotion to the next level of training, or non-

reappointment for reasons related to professional incompetence or failure to achieve a resolution through Informal Mediation (Level 1), the resident may request a hearing by delivering a request for hearing to the GME Office in writing. If the resident fails to deliver to the GME Office a written notice requesting a hearing within the specified time period, he/she is considered as having given up the right to (waived) the hearing and is considered as accepting the disciplinary action. The written notice shall be considered as received three (3) days following the date of the notice.

HEARING COMMITTEE AND COMPOSITION

Upon receipt of a written request for hearing from the involved resident, the Program Director shall appoint a Hearing Committee. This Hearing Committee may either be an ad hoc committee established for this purpose, or a standing hearing committee having major responsibilities in relation to residency training programs. The Hearing Committee shall have an odd-number of members with no more than eleven (11) members and no fewer than three (3) members. At least one member of the Hearing Committee shall be a chief resident. No individual who has actively been involved in the issue(s) under consideration shall serve as a member of the Hearing Committee. Voluntary faculty with appointments in the resident's department may serve on the Hearing Committee, but in no case shall membership of the resident's department exceed one-half of the total membership of the Hearing Committee. The Hearing Committee, if not a standing committee, shall determine its own chair.

Within seven (7) days of receipt of the written request for hearing from the involved resident, the Program Director shall inform the resident of the proposed membership of the Hearing Committee in writing. At that time the resident shall have the opportunity to object to the inclusion of particular individuals on the Committee if he/she believes their participation on the Committee will be prejudicial. The resident shall submit objections in writing to the GME Office within two (2) days of receipt of written notification of the proposed Hearing Committee membership. The objections must specify the reasons why the resident is objecting to a particular member of the Committee. If the resident fails to deliver to the GME Office a written notice objecting to the Hearing Committee membership within the specified time period, he/she is considered as having given up the right to (waived) object to the Hearing Committee and is considered as having consented to the membership of the Committee. The GME Director shall consider any objections submitted by the resident and issue a final, binding decision on the Hearing Committee membership in writing to the resident within two (2) days of receipt of the resident's written objection.

NOTICE AND SCHEDULE OF HEARING PROCESS

The GME Office shall notify the resident in writing of the time, place and date of the hearing as soon as practicable, but not less than seventy-two (72) hours in advance of the hearing. The meeting date shall be not less than fourteen (14) days from the date of receipt of the written request for hearing and shall be scheduled as soon as practicable thereafter.

All members of the Hearing Committee must be present when the hearing takes place, and no member may vote by proxy. A vote of the majority of the Hearing Committee shall be the recommendation of the Hearing Committee. The personal appearance of the resident involved is required. A resident who fails without good reason to appear and proceed at the hearing gives up his/her rights to have a hearing and further review of the disciplinary action and to have accepted the disciplinary action taken.

Postponement of the hearing shall be only with the approval of the Hearing Committee, at its sole discretion, for good cause.

At the hearing, the involved resident may bring one (1) person to accompany him/her. This person may, but need not, be an attorney. The assistant may only assist the resident in presenting his/her case to the Hearing Committee and may not directly or indirectly address the Hearing Committee or witnesses, whether through statements, questions or otherwise. The resident may ask a Program Director of another program to be the assistant or to answer questions the resident may have regarding this process.

The resident will be provided with a copy of the materials given to the Hearing Committee for its review of the matter. It shall include materials determined by the Program Director to be relevant to the disciplinary matter as well as any materials that weigh against the disciplinary action.

The resident shall provide the GME Office with copies of any documentary evidence he/she presents to the Hearing Committee. The Hearing Committee will not be provided with any further information from the resident's file. The Program Director, through the GME Office, shall identify his/her witnesses to the resident; the resident is responsible for asking other people to attend whom he/she deems relevant.

The chair of the Hearing Committee shall determine the order of procedure during the hearing, to assure that all participants in the review have a reasonable opportunity to present relevant oral and documentary evidence, and to maintain decorum. The hearing will not be conducted according to rules of evidence.

The involved resident may call and examine witnesses, introduce written evidence, cross-examine any witness on any matter relevant to the issue of the review of appeal, challenge any witness, rebut evidence, and submit a written statement to the record. If the resident does not address the committee on his/her behalf, he/she may be called and examined as if under cross-examination.

The Hearing Committee may, without special notice, recess the hearing and reconvene the same for the convenience of the Hearing Committee or for the purpose of obtaining new or additional evidence or consultation. Upon conclusion of the presentation of oral and written evidence, the hearing shall be concluded. The Hearing Committee shall

thereupon, at a time convenient to itself, conduct its deliberations outside the presence of the involved resident and the Program Director.

Within seven (7) business days after it concludes its deliberations, the Hearing Committee shall formulate a written report and recommendation(s) and shall forward the same, together with the record, to the Program Director. The report may recommend confirmation, modification, or rejection of the original disciplinary action(s).

NOTIFICATION OF RESIDENT OF HEARING COMMITTEE RECOMMENDATIONS

Within seven (7) business days following receipt of the Hearing Committee report and recommendations, the Program Director shall notify involved resident of the same and his/her intended course of action in writing, by regular and certified mail. The notification shall include a copy of the report and recommendation of the Hearing Committee.

LEVEL 3: REVIEW BY THE COMMITTEE ON GRADUATE MEDICAL EDUCATION

REQUEST FOR REVIEW BY THE COMMITTEE ON GRADUATE MEDICAL EDUCATION

If the Hearing Committee has upheld the proposed disciplinary action or has proposed a modified disciplinary action agreed to by the Department Chair, or if the Department Chair has pursued an independent course of action adverse to the resident, the involved resident shall be entitled to seek review of the Committee on Graduate Medical Education. Such request must be submitted in writing to the Associate Dean for Graduate Medical Education within fourteen (14) days following receipt of written notification from the Program Director. The notification shall be deemed received three (3) days following the date of the notice. If the resident fails to file such a written request within the time specified, he/she shall automatically waive his/her right to further review and is considered as having accepted the Program Director's course of action.

The request for review shall state the reason review is requested. Unless the resident identifies new, relevant material not available at the time of the hearing or identifies plain error in the Hearing Committee report, the review of the Committee on Graduate Medical Education will be confined to verifying that the hearing procedures in this Manual were made available to the resident.

COMMITTEE ON GRADUATE MEDICAL EDUCATION REVIEW

Upon receipt of a request for review from the involved resident, the Associate Dean for Graduate Medical Education shall arrange a meeting of the Committee on Graduate Medical Education. The meeting must take place within twenty-one (21) business days of receipt of the resident's written request. A majority of Committee members must be present in order to review the appeal. No member who was involved as a witness, Hearing Committee member or otherwise has first

hand knowledge of the matter shall be present during or participate in the review.

The Committee on Graduate Medical Education's review shall be made on the record of the Hearing Committee and shall be limited to determining whether the resident was afforded the hearing procedures set forth in this Manual. If, however, the resident has identified new, relevant material unavailable at the time of the Hearing Committee review or a plain error on the part of the Hearing Committee, the Committee may review the substance of the record. The resident shall submit the material in writing to the Committee; the Program Director shall be given a copy and be permitted to submit material related to the new submission. Thereafter, the Committee shall determine whether the record, as supplemented, supports the recommendation or course of action of the Program Director, even if the Committee may disagree with that recommendation or course of action. The Committee on Graduate Medical Education shall, within seven (7) business days of completing this review, formulate its recommendation(s) and forward the same to the Program Director.

FINAL NOTIFICATION OF RESIDENT

Within seven (7) days following receipt of the Committee on Graduate Medical Education's recommendations, the Program Director shall advise the Associate Dean for Graduate Medical Education in writing of his /her proposed determination. The Associate Dean for Graduate Medical Education shall review the Program Director's determination to assure that institutional interests are not compromised. If the Associate Dean for Graduate Medical Education is so assured, he/she shall notify the Program Director in writing, who shall in turn provide written notification to the involved resident as to the final determination. In the instance of non-concurrence between the Program Director and the Associate Dean for Graduate Medical Education as to considerations involving institutional interests, the matter shall be referred to the Vice President for Health Affairs, who shall make a final determination and so notify the resident as to the final determination. Such administrative review and notification as herein described shall be completed no later than twenty-one (21) days following the Program's receipt of the Committee on Graduate Medical Education recommendations.

Approved by GMEC: Nov. 17, 2003

Effective: July 1, 2004

Revised, reviewed and approved by GMEC: February 26, 2007

Effective: July 1, 2007