



Regional Academic Affairs

TITLE: Due Process	POLICY NUMBER: S-04
DEPARTMENT: Graduate Medical Education	Effective Date: 07/01
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	Reviewed: 10/23
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POLICY:

To ensure proper procedures are in place for remedial or disciplinary action with regard to inadequate Resident performance.

PURPOSE:

To provide program directors with procedures for implementing fair remediation and disciplinary processes for Residents based on Academic and /or Non-Academic deficiencies (Resident Performance Deficiency):

PROCEDURE:

I. Resident Performance Deficiency

When remedial or disciplinary action for Resident Performance Deficiency becomes necessary, the Program Director must discuss the matter with the Designated Institutional Official (DIO) before proceeding to any of the following steps based on the seriousness of the deficiencies. The Program Director and DIO must jointly agree upon the status of disciplinary action: warning, probation (including remediation efforts in both) or dismissal. Monthly written progress reports, by the Program Director, shall be submitted to the DIO until final resolution of the matter. This policy also outlines the due process rights for actions involving resident suspension, non-renewal, non-promotion or dismissal.

Steps 1 and 2 below (warning status and probationary status) outline the Due Process rights/steps should a program place a resident on suspension, or program determine a resident is at risk of/or will undergo non-renewal of contract or non-promotion of resident.

Step 3 below outlines the due process rights/steps should a program recommend a resident for outright dismissal.

1. Warning Status

- a. Schedule an appointment with the Resident to discuss the Resident's performance.
- b. Review with the Resident the written performance evaluations and concerns of the program.
- c. State clearly to the Resident what action is to be taken by the program.
- d. State clearly to the Resident what is expected of him/her as a remediation plan, (i.e. advise, tutor) and that he/she is placed on "warning status". It is the Resident's responsibility to correct the deficiencies.
- e. Give the Resident a time-frame schedule for the suggested remediation for a minimum period of 60 days.
- f. Schedule a follow-up meeting with the Resident during the period of remediation.
- g. Send to the Resident by e-mail with read receipt confirmation, a letter outlining the content

of the meeting that informs the Resident that he/she is on warning status, a clear listing of remediation requirements, the date of the follow-up meeting, and a copy of this policy. Alternatively, a memo may be written, dated, and signed by both the Program Director and the Resident to outline the same requirements as previously described.

- h. The date of a warning notification can count towards the 4-month notice for contract non-renewal. A warning is not appealable to the Ad Hoc Committee in Section 3.

2. Probationary Status

- a. Schedule an appointment with the Resident to discuss the Resident's performance during warning/remediation status.
- b. Review with the Resident the written performance evaluations and concerns of the program.
- c. State clearly to the Resident that he/she has not met the remediation requirements outlined during the warning status, and he/she has been placed on probationary status.
- d. State clearly to the Resident what is expected of him/her as a remediation plan, (i.e., advise, tutor) and that he/she is placed on "probationary status". It is the Resident's responsibility to correct the deficiencies.
- e. Give the Resident a time-frame schedule for the suggested remediation for a minimum period of 30 days and up to a maximum of 60 days.
- f. Schedule periodic follow-up meetings with the Resident during the period of probation and document the date of the meeting, progress or lack of progress discussed in the meeting.
- g. If the Resident's performance continues to be deficient, at the end of the probationary status period, he/she shall be given a Notice of Continued Deficiency.
- h. After the Resident receives this notice, within 1 week he/she may respond, in writing to provide his/her explanation for such deficiency.
- i. After the Resident has responded or failed to respond to the Notice of Continued Deficiency, the Program Director may take the following actions:
 - Remove the Resident from Probationary Status
 - Extend the Probationary Status
 - Recommend dismissal of the Resident from the training program
- j. The Program Director shall inform the DIO of the decision directly.
- k. The date of Placement on Probationary status can count towards the 4-month notice for contract non-renewal. Placement on Probationary Status is not appealable to the Ad Hoc Committee in Section 3.
- l. If the Resident successfully meets the requirements set forth in the probationary status, the Program Director shall remove the Resident from Probationary Status and make a notification to that effect in Resident's file.

3. Dismissal Status

If the Program Director recommends dismissal of a Resident, either because the Resident has not benefited adequately from remediation after receiving a Warning or Probationary Status or because the Program Director deems the resident's deficiency(ies) so grave that patient or institutional risks outweigh the benefits of Warning or Probationary Status, the Program Director must discuss the matter with the DIO and seek approval, prior to the Resident being placed on Dismissal Status. Mercy Legal Counsel should also be involved at this stage. The Resident may elect one of the two alternatives:

- Accept dismissal immediately.
- Request the DIO to review the dismissal.

If the Resident requests Review of the Dismissal by the DIO, the following steps shall occur:

- a. The DIO will review the dismissal and the response of the Resident.
- b. If the matter cannot be resolved between the Program Director and the Resident, the DIO

shall appoint an ad hoc committee and serve as chair. The committee will be composed of at least, 1 GMEC member, 1 faculty, 1 resident and the Chief Medical Officer/or designee. None of the persons on the Ad Hoc Committee except the DIO shall have been involved in the situation giving rise to the discipline of the Resident. The committee shall review the dismissal and make a recommendation to the DIO.

- c. All relevant records shall be made available to the committee
- d. The Resident has the right but is not required to appear before the committee
- e. The Program Director has the right but is not required to appear before the committee
- f. The Resident may bring faculty, residents, or staff to support the Resident's progress. Neither side may be represented by an attorney.
- g. The Program Director may bring faculty, residents, or staff as necessary to provide clarification or detail critical to the ad hoc committee's understanding of the issue.
- h. The committee shall review the dismissal and make a recommendation to the DIO. The recommendation shall be given to the Resident in writing by certified mail, return receipt or e-mail with read receipt documented.
- i. This procedure is to be accomplished within 30 days of the request for review of dismissal. During the review process the Resident will be placed on paid administrative leave. During administrative leave, credit for residency training will not be awarded. Resident may need to sign an amendment to their employment agreement during this time period to continue receiving pay.

In the event the committee concurs with the Program Director's recommendation for dismissal of the Resident, the Resident shall be dismissed.

In the event the committee should not concur with the Program Director's recommendation for dismissal, the Program Director will be informed that the Resident will continue in the program for one additional period, of specified and limited duration, during which remedial efforts will continue. After the completion of the additional period of specified duration, any remaining decision as to the Resident's continued participation in the training program reside solely with DIO and the Resident has no further right of appeal.

Written documentation is essential in all steps of the remediation or disciplinary action process for Resident Performance Deficiencies. Keep copies of all correspondence in the Program Office.

Approved by:



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