
Policy Title: Grievance and Due Process for Graduate Medical Education Trainees

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PURPOSE

The Accreditation Council of Graduate Medical Education (ACGME) Institutional Requirements II.D.4.e)(1)-(2) states: "The Sponsoring Institution must provide residents with fair, reasonable, and readily available written institutional policies and procedures for grievance and due process." The purpose of this policy is to provide residents and fellows participating in post-graduate training programs a process for grieving matters other than those listed in General Grievances below, as well as due process to follow while appealing the imposition of Corrective Actions.

SCOPE

This policy applies to all Graduate Medical Education (GME) training programs at the University of Texas Southwestern Medical Center including Texas Medical Board (TMB) and American Board of Obstetrics and Gynecology (ABOG) approved programs. For the purpose of this policy, ACGME Common Program Requirements will apply to residents and fellows receiving training in TMB and ABOG approved programs.

DEFINITIONS

Fellow: A physician in a program of graduate medical education accredited by the ACGME who has completed the requirements for eligibility for first board certification in the specialty. The term "subspecialty residents" is also applied to such physicians.

Formative Evaluation: Assessment of a resident or fellow with the primary purpose of providing feedback for improvement as well as to reinforce skills and behaviors that meet established criteria and standards without passing a judgment in the form of a permanently recorded grade or score.

Performance Improvement Plan (PIP): A plan of remediation designed to improve a resident's or fellow's proficiency in-patient care, medical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and systems-based practice.

Post-Graduate Training Program: A residency or fellowship educational program.

Program: A structured educational experience in graduate medical education designed to conform to the Program Requirements of a particular specialty/subspecialty, the satisfactory completion of which may result in eligibility for board certification.

Resident: Any physician in an accredited graduate medical education program, including interns, residents, and fellows.

POLICY

In compliance with the ACGME Institutional Requirements as listed above, all GME programs are expected to promote fair, reasonable efficient and equitable solutions to these issues that may arise in the course of residency training.

GENERAL GRIEVANCES

If a resident or fellow has a complaint or grievance related to matters other than job performance, corrective actions, discrimination or sexual harassment, the resident or fellow should first attempt to resolve it by consulting with the chief resident, senior fellow, or the program director. If the resident or fellow is unable to resolve it at that level, the resident or fellow should present the complaint or grievance to the Department Chairperson. If the resident or fellow is unsatisfied with the Department Chairperson's decision, recommendation or other handling of the complaint or grievance, the resident or fellow may present the complaint or grievance in written form to the UT Southwestern Graduate Medical Education office who shall provide a written response to the resident or fellow within ten (10) business days of receipt of the written complaint. The decision of the Associate Dean for Graduate Medical Education shall be final and binding.

SEXUAL HARASSMENT AND DISCRIMINATION

If a resident or fellow has a complaint or grievance related to discrimination or sexual discrimination, the resident or fellow shall have the right to address said complaint in accordance with the policies and procedures set forth in UT Southwestern's Handbook of Operating Procedures and Institutional Policies.

DUE PROCESS PROCEDURE

A resident or fellow may seek relief from a corrective action imposed pursuant to the Academic Improvement and Correction Action Policy by using the following process:

1. First Step

Request for Review: The resident or fellow may request to have any corrective action reviewed. A request for review should be submitted to the UT Southwestern Graduate Medical Education office within five (5) days of the resident or fellow learning of the corrective action. Upon receipt of a request for review, GME administration will appoint a physician not related to the program to review the complaint and determine whether the matter is reviewable under this policy.

The physician reviewer will:

- Review the complaint
- Meet with the resident or fellow
- Review the resident's or fellow's file
- Meet with the program director
- Consider any extenuating circumstances
- Consult with others, as appropriate, to assist in the decision making process; and
- Determine whether this policy was followed, i.e. the resident or fellow received notice of deficiency and an opportunity to cure, and the decision to take the corrective action was reasonably made.

GME Administration will:

- A. Appoint the physician reviewer
- B. Assist the physician reviewer to identify other potential participants, if warranted
- C. Provide procedural guidance to the physician reviewer, if warranted
- D. Coordinate communications between the physician reviewer and the resident or fellow
- E. Monitor timely completion of the review process
- F. Assist the Physician reviewer with the written report to the resident or fellow and Program Director (should be provided within 20 days of the resident's or fellow's request for review).

2. Second Step

The resident or fellow shall present the grievance in writing to the GME Administration within five (5) working days after receiving the written report of the Physician review. The grievance shall state the facts upon which the grievance is based and the requested remedy sought.

Ad Hoc Committee Review

GME Administration shall organize a hearing of an ad hoc review panel within ten (10) business days of receiving the resident's or fellow's request for a review. No member of the ad hoc review panel should have any direct involvement with the circumstances in question. The ad hoc panel shall consist of the following three individuals, none of whom may be from the department of the resident or fellow in question:

1. One program director who shall act as chairperson of the ad hoc review panel;
2. Two additional faculty members; and
3. One GME administrator (non-voting member of the panel)

The Ad Hoc Review panel will set a date for the hearing within thirty (30) days from the receipt of the grievance and allow at least 10 days notice to the resident. The Chair of the Ad Hoc Committee shall discuss the complaint with the resident and the Program Director independently.

The resident or fellow shall have the following rights during the ad hoc review:

1. The right to know the reason for the action resulting in the corrective action.
2. The right to know the time and place of the ad hoc review as well as the names of the panel members in writing at least 10 business days in advance.
3. The right to provide a written rebuttal of the accusations and be heard in person.
4. The right to be accompanied by an advisor, who may or may not be an attorney. While the advisor may consult with and advise the resident during the review, the advisor shall not in any way participate in the proceedings. UT Southwestern shall have the right to have a representative from the Office of the Vice President for Legal Affairs in attendance. The right to a written statement prepared by the hearing body setting forth its recommendations and/or conclusions, its reasons for reaching such recommendations or conclusions, and the facts relied upon in reaching such recommendations or conclusions.

Procedure at the Ad Hoc Committee Review

The format of the hearing will include a presentation by the program director (max 20 minutes); an opportunity for a presentation of equal length by the resident; an opportunity for response by the program director (max 10 minutes), followed by a response of equal length by the resident. This will be followed by a period of questioning by the hearing panel.

Documents to be considered by the review panel must be completed and distributed to the other party and the ad hoc review panel not less than five (5) business days before the review. Such submission shall include pertinent subject matter (in writing) from witnesses and the relevance of that witness's evidence to the matter being heard.

The Ad Hoc Committee at its sole discretion may decide to expand participants at the hearing to include the individuals who provided witness statements for the program, the resident or fellow. If the Ad Hoc Committee elects to expand the participants, the members of the Ad Hoc Committee, program representative and resident or fellow may question the witnesses.

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The review panel shall deliberate privately. A final decision will be made by a majority vote of the ad hoc panel and the finding and recommendation communicated within ten (10) business days following completion of the review.

Appeal to the DIO

If the resident or fellow does not agree with the recommendations and/or findings of the ad hoc committee, the resident may appeal in writing within ten (10) business days of receipt of the Ad Hoc Committee decision to the DIO. The DIO shall consider the matter and within ten (10) days will provide a written determination to the resident or fellow. The determination of the DIO shall be final and binding and no further review or appeal process will be available.

Related Matters

1. The burden of persuasion is upon the resident to demonstrate by clear and convincing evidence that the action taken was arbitrary and capricious, i.e., not based on legitimate academic or professional reasons.
2. The ad hoc review panel record is confidential and shall not be open to the public, except (a) to the extent both parties agree in writing or (b) as may otherwise be appropriate in response to a governmental or legal process.
3. Failure of the resident to meet the time limits for formal grievance shall constitute a withdrawal of the appeal.