



Policies and Procedures

Policy Title: DISCIPLINARY CODE AND FAIR HEARING GRIEVANCE, APPEAL PROCEDURE AND DISMISSAL			
Department Responsible: Graduate Medical Education	Policy Code: GME	Effective Date: July 1, 2015	Next Review/Revision Date: July 2019
Title of Person Responsible: Designated Institutional Official	Approval Body: Graduate Medical Education Committee	Date Approved by GMEC: July 11, 2017	

Policy

It shall be the policy of the Moses H. Cone Memorial Hospital that resident misconduct, failure to comply with the policies and procedures governing Graduate Medical Education, or unsatisfactory performance based on one or more resident evaluations may adversely affect the resident’s standing in his/her program. In such cases, the resident may receive a remediation plan, or be placed on probation. In cases of sufficient gravity, the Program may initiate corrective actions that could result in the termination of the resident’s appointment.

A resident whose performance conforms to established evaluation criteria in a consistent and satisfactory manner will be considered to be “in good standing” with the program and institution. The purpose of the Disciplinary Code of Conduct is to promote a safe, cooperative, and professional and educational environment and to prevent disruptive behavior.

Definitions

Disruptive behavior includes any conduct that impairs the health care team’s ability to function well, creates a hostile work environment, and violates professional ethics or the Cone Health's operating principles and practices.

Disruptive behavior that may result in disciplinary action may be classified into three categories:

- 1) behavior related to clinical performance of duties;
- 2) behavior related to personal conduct; and
- 3) behavior related to academic underachievement.

They are defined as follows:

Clinical disruptive behavior that may result in disciplinary action includes:

- 1) Inefficiency or incompetence in performance of duties;
- 2) Negligence in the performance of duties;
- 3) Physical or mental incapacity for performance of duties;
- 4) Failure to maintain satisfactory working relationships with peers, staff, or patients;
- 5) Improper use of sick leave privileges; and
- 6) A pattern of failure to report for duty as scheduled.



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Personal conduct that impacts professionalism may include:

- 1) Conviction of a felony and/or any offense including drug or alcohol misuse and abuse.
- 2) Immoral conduct or criminal acts;
- 3) Falsification of job information or medical data;



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- 4) Willful destruction of property; and
- 5) Refusal to accept a reasonable and proper assignment from an authorized supervisor.

Academic disruptive behavior that may result in disciplinary action includes:

- 1) Failure to meet specified academic goals;
- 2) A pattern of indifference to learning opportunities;
- 3) Failure to satisfy faculty that knowledge acquisition has been sufficient to grant certification of completion of the program.

Responsibility

The primary responsibility for monitoring the performance of residents and for imposing disciplinary action rests with the Program Director of the resident's program.

A resident is responsible for understanding and complying with the duties assigned by the Program Director (either specifically or through precedence in the program) plus reasonable expectations of a resident in unforeseen circumstances. If any expectation is unclear, it is the resident's responsibility to seek out clarification from the Program Director, faculty members, or the Graduate Medical Education (GME) Office.

Disciplinary Actions

Disciplinary actions which may be imposed by the Program Director include:

- 1) Assignments of additional work;
- 2) Withholding of benefits such as travel, and professional meetings;
- 3) Probation for a specified period;
- 4) Suspension with pay;
- 5) Suspension without pay;
- 6) Requirement to repeat portions of the program;
- 7) Moonlighting activities may be restricted.
- 8) Extension of the resident's program for academic reasons with or without pay;
- 9) Nonrenewal of contract; and
- 10) Dismissal from the program.

The first six forms of disciplinary action cited above may be imposed by the Program Director at any time deemed appropriate. However, when time and circumstances permit, the Program Director should determine that there is a consensus among the faculty within the program that such action is justified.

Program extension and dismissal, the last two forms of actions cited above, may be imposed only when the Program Director is supported by the faculty or a specified group of faculty of the program who are responsible for promotion decisions. Neither of these actions will be taken without the knowledge of and approval by the Designated Institutional Official, Medical Education.

Disciplinary Procedure

Any resident placed on probation must be notified in writing in advance as to the following. Probation is non-grievable.

- 1) Reason for probation;



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- 2) Duration of probation;
- 3) Expectations and/or requirements that, when met, will result in removal of probation;
- 4) Penalty to be imposed if terms of probation are not met.

Any resident whose program is extended for academic reasons must be notified at least sixty (60) calendar days (with exception noted below) before the completion of the academic year. Such notification should state:

- 1) Length of the extension, or criteria to be satisfied (if length is not specified);
- 2) Reasons for the extension, supported by prior evaluations of performance;
- 3) Specific deficits to be corrected; and
- 4) Criteria and evaluation procedures to be employed in determining satisfactory completion of the year for credit.

Exception to the sixty-day requirement: A major academic failure occurring in the final 2 months of the academic year, may justify extension. In such cases failure must be considered by faculty to overshadow satisfactory performance in the first ten months of the year.

A resident may not be dismissed without warning. However, when in the judgment of the Program Director or an authorized designee, immediate action is necessary to protect the safety of persons or property, immediate suspension may be imposed.

Dismissal actions related to personal conduct may be instituted during a period of suspension. Dismissal actions related to performance of duties or underachievement must be preceded by a probationary period or suspension of at least fifteen (15) calendar days.

If immediate suspension is imposed without notice, the resident must be notified in writing within 5 calendar days of the terms of the suspension. This shall include either:

- 1) Duration of suspension and the terms to be met to earn reinstatement; or
- 2) Notice of dismissal following suspension with a clear statement of the justification for the action.

Ideally, residents under consideration for dismissal should have received repeated written warnings presented to the GME Office. Examples of letters of notification may be secured from the GME Office.

Grievance Process

At any time during this process, the Resident may resign from the residency program. Once a written resignation has been delivered to the Program Director the Resident shall be deemed to have waived all rights to a hearing or to a continuance of their appointment.

Hearing Procedure

1. Upon notification by the Resident that a review is requested, the Designated Institutional Official or designee shall form a committee consisting of the Director of Graduate Medical Education or designee, a hospital administrator, a house officer and two program directors or one program director and one physician faculty member (hereafter called the Committee.) The Designated Institutional Official shall not select any person currently



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- supervising the Resident. The Designated Institutional Official will select the Chair of the Committee.
2. The GME Office shall schedule a hearing to occur within 14 days, or within a reasonable period of time based upon availability of the Resident, Program Director and Committee, but not less than seven days from the date of the Resident's request for review. In the interim, the GME Office shall obtain and review all relevant evaluation and academic records.
 3. All evidence available shall be provided to the Resident and Program Director and the committee at least three working days prior to the hearing. The specification of reasons for non-renewal or dismissal or other factors in the original written notice shall not prevent the Committee from relying on other reasons that are presented at the hearing. The Committee may, at the request of the Resident and without special notice, recess the hearing and reconvene later in order to allow the Resident adequate opportunity to address reasons not included in the notice. The Committee may also, at its sole discretion and without special notice, recess the hearing and reconvene later in order to study new evidence presented by the Resident at the hearing.
 4. The Resident shall be present and prepared to proceed at the scheduled hearing or shall be deemed to have waived all rights to a hearing and to have accepted any adverse recommendation or decision made by the Committee. Another hearing may be scheduled at the Committee's sole discretion if the Resident presents good cause for failing to appear or proceed. Hearings scheduled under this policy shall be postponed only for good cause and at the sole discretion of the Committee.
 5. The Resident and the Program Director may invite up to 5 witnesses each to present before the Committee. The Resident and Program Director may also ask others not invited to speak to submit written statements that will be collected by the GME Office at least 5 days prior to the hearing date.
 6. The GME Director or designee, will participate as the hearing officer to determine the order of procedure, to assure that all participants have a reasonable opportunity to present relevant oral and documentary evidence, to maintain decorum and to make any necessary procedural rulings. The designee is not considered part of the Committee.
 7. The hearing need not be conducted strictly according to the rules of law relating to the examination of witnesses or the presentation of evidence. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs shall be considered.
 8. The Resident shall be entitled to submit, either prior to or during the hearing, memoranda concerning any issue of procedure or fact and such memoranda shall become part of the hearing record.
 9. The order of presentation shall be determined by the Chair of the Committee. The Program Director shall be responsible for presenting appropriate evidence in support of the decision being questioned by the Resident. The Resident shall be responsible for presenting evidence that contradicts the Program Director's evidence or indicates that the Program Director's decision was arbitrary, unreasonable or capricious.
 10. The Resident, the Program Director and the Committee may be entitled to consult with legal counsel in preparation for the hearing or with regard to other related matters.
 11. Neither the Resident nor the Program Director shall be represented at the hearing by an attorney. In addition, neither the Resident nor the Program Director shall be entitled to have an attorney present during the hearing.



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12. The Committee may, without special notice, recess the hearing and reconvene the same for the convenience of the participants 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 closed.

13. The hearing may not be tape-recorded.

Post-Hearing Procedure

1. The Committee shall conduct its deliberations in closed sessions. Only Committee members will be permitted to observe or participate in the deliberations.

2. Within 14 days, or a reasonable period of time after the conclusion of the hearing, the Committee shall make its final decision and shall deliver written notice thereof to the Designated Institutional Official, Program Director and the Resident. The notice shall indicate the reasons relied upon by the Committee in reaching its decision.

3. In the event the Committee should not concur with the Program Director's recommendation for non-renewal or dismissal or other issues regarding the Resident, the Program Director may be asked to accept the Resident in the departmental program for an additional period of specified duration during which time remedial efforts may be continued on the Resident's behalf. The Resident's appointment shall be continued under such conditions as shall be defined in writing by the Program Director to the Resident and to the Graduate Medical Education Office.

4. There shall be no appeal from the decision of the Committee.