

<b>The University of Alabama Hospital</b> Graduate Medical Education Policy and Procedure	GMEC Approved Date: May 7, 2024
<b>Due Process Policy</b>	Next Review Date: Spring 2025

## **SECTION X: GME DUE PROCESS POLICY**

The ACGME recognizes that there are situations which require more significant intervention that may alter a resident's progression through residency. To ensure due process, it is essential that the program director follow institutional policies and procedures. (CPR V.A.1.d).(3) Background and Intent)

The procedures set forth below are designed to provide the due process that must be provided in connection with certain adverse or remedial actions taken against the trainee. These Policies and Procedures are the exclusive remedy by which GME residents/fellows may appeal academic and/or professionalism actions taken by the program director.

The terms of the trainee's appointment are set forth in annual contracts signed by the trainee, the Program Director, and the DIO. All such appointments, either initial or continuing, are dependent upon the trainee maintaining good standing in the program and meeting overall and year-specific educational expectations of the program. Dismissal from a program will result in the trainee's automatic dismissal from any and all related appointments within The University of Alabama Hospital.

All actions set forth herein need not be progressive, and any action may be repeated as determined appropriate by the Program Director and/or Designated Institutional Official (DIO).

A GME resident/fellow may use these procedures when it is believed an unfair or improper adverse action of remediation, probation, non-advancement to the next training year, non-renewal of contract and dismissal has occurred.

### **DUE PROCESS GUIDELINES**

- During the program orientation period, the program must provide goals and objectives of the training program to residents/fellows. The goals and objectives must be accessible by residents/fellows and faculty members during the training program.
- The procedures for evaluation, including when and how evaluations will be conducted will be described during the program orientation period. Such evaluations will occur at meaningful intervals and will include multi-source evaluations.
- All evaluation data and any reported concerns are reviewed by the CCC. The CCC will recommend action for good standing, remediation, promotion, program completion, probation, non-reappointment, or dismissal.
- The Program Director is ultimately responsible for the determination of resident progression.
- Program leadership will communicate at least semi-annually with the resident regarding academic and professional status within the program. When needed, the program will communicate with the trainee if any suspected difficulties that are interfering with performance are identified.

#### **A. ACADEMIC PROBATION**

The program director shall be authorized to place a resident/fellow on academic probation. Grounds for academic probation include, but are not limited to, performance judged to be unsatisfactory for the resident/fellow's level of training, unprofessional conduct, or failure to comply with institutional and/or departmental policies and procedures. In all such cases, the program director shall provide the resident/fellow and Designated Institutional Official (DIO) with written notification of such action which delineates the following:

- specific reasons for the action,
- any previous counseling provided concerning the deficiency and outcomes,
- the period of the probation status (end date for reassessment of status required),
- requirements for removal of probationary status,
- and action to be taken should the resident/fellow fail to meet the requirements for removal of probationary status (must include a statement regarding the potential extension of residency/fellowship, if applicable).

Should a resident/fellow fail to comply with the requirements for removal of probationary status, the program director shall have authority to continue the resident/fellow's probationary status, require the resident/fellow to repeat specific portions of the educational program, or suspend or revoke the resident/fellow's appointment.

#### **B. ADMINISTRATIVE PROBATION**

The DIO shall be authorized to place a resident/fellow on administrative probation for violations of the eligibility standards for becoming and remaining a resident/fellow in the training programs, as outlined in the Graduate Medical Education Policies and Procedures manual. Grounds for administrative probation include, but are not limited to,

- failure to obtain certification in BLS and ACLS,
- failure to meet deadlines for obtaining passing scores for USMLE Step 2 and 3/COMLEX Level 2 and 3, and/or
- failure to meet the deadline for obtaining the appropriate Alabama medical license

In all such cases, the DIO shall provide the resident/fellow and program director with written notification of such action which delineates specific reasons for the action, the period of the probationary status, requirements for removal of probationary status, action to be taken should the resident/fellow fail to meet the requirements for removal of probationary status and the potential extension of residency/fellowship. Should a resident/fellow fail to comply with the requirements for removal of probationary status, the DIO shall have authority to suspend the resident/fellow's appointment or revoke the resident/fellow's appointment.

#### **C. SUSPENSION OR REVOCATION OF APPOINTMENT**

1. **Temporary Suspension:** The program director shall be authorized to suspend a resident/fellow's privileges for disciplinary purposes that are less urgent than those

warranting permanent recall of privileges. Grounds for temporary suspension of privileges include:

- a) violations of the Rules and Regulations of the Hospital,
- b) unprofessional conduct, and
- c) violations of medical records requirements.

In all such cases, the resident/fellow and the Designated Institutional Official shall be notified in writing by the program director. An opportunity for the resident/fellow concerned to have a hearing shall be afforded as provided in these policies. See **HEARING PROCESS** listed below.

2. **Revocation of Resident/Fellow Appointment:** In all cases in which revocation of a resident/fellow's appointment has been recommended by the program director, the resident/fellow and the Designated Institutional Official shall be notified in writing by the director. An opportunity for the resident/fellow concerned to have a hearing shall be afforded as provided in these policies. If the resident/fellow wishes a hearing, he/she must submit a written request to the DIO within ten (10) days after receipt of the notification letter. Otherwise, the DIO will act upon the program director's recommendation.

## A. GENERAL

Residents/fellows and Program Directors are encouraged to work within their departments to address and resolve any issues of concern to the residents/fellows, including concerns related to the work environment, faculty, or the resident/fellow's performance in the program. All such concerns should be presented by the residents/fellows to their Program Directors for resolution. As set forth in Section X and Section XI, there are additional procedures for residents/fellows to request review of certain academic or other disciplinary actions taken against residents/fellows that could result in dismissal, nonrenewal of a resident/fellow's agreement or other actions that could significantly threaten a resident/fellow's intended career development. The due process procedures outlined below may be pursued.

## B. INFORMAL ADJUDICATION

1. **Request for Informal Adjudication:** Informal Adjudication may be requested by a resident/fellow if a Program Director initiates an action (other than the actions that are subject to administrative probation in Section X.B above or to review pursuant to Section C below) that could significantly threaten a resident/fellow's intended career development, as determined solely by UAB. These actions include imposition of academic probation and requirements to repeat rotations or academic years. These actions do not include performance evaluations, which are in the sole discretion of the faculty completing the evaluations. To request Informal Adjudication, the resident/fellow must submit a written request to the Designated Institutional Official/Chair of the GMEC ("Chair"), within five (5) calendar days of the date of written notification of the action. Failure to submit a written request within this time-period shall constitute a waiver of the resident/fellow's right to request an Informal Adjudication.
2. **Informal Adjudication:** The Informal Adjudication will be conducted by the DIO/Chair and will consist of a record review of the file and any materials submitted by the Program Director and resident/fellow. The DIO/Chair may, in her/his sole discretion, choose to

interview the resident/fellow and Program Director and to consult with any other individual deemed appropriate. The DIO/Chair will issue a written decision that will constitute UAB's final decision and is not subject to appeal. The written decision will be maintained in the resident's/fellow's official record.

### C. HEARING PROCESS

1. **Request for Hearing:** A resident/fellow can request a hearing when any of the following actions are imposed:

- a) nonrenewal of the resident/fellow's contract,
- b) temporary suspension, or
- c) revocation/termination of the resident/fellow's appointment.

To request a hearing, the resident/fellow must submit a written request to the DIO within ten (10) calendar days of the date of the written notice of the recommendation. Failure to submit a written request within this time-period shall constitute a waiver of the resident/fellow's right to request a Hearing.

2. **Judicial Review Committee:** The DIO shall appoint a Judicial Review Committee consisting of three members of the active medical and dental staff and two members of the housestaff who have not taken active part in consideration of the matter contested. The DIO shall determine the time and place of the hearing and send a notice of same to the resident/fellow. Prior to the hearing, the resident/fellow and Program Director may submit material to the DIO for the Judicial Review Committee's consideration. The resident/fellow, Program Director and Judicial Review Committee will be furnished with relevant material prior to the hearing.
3. **Conduct of the Hearing:** The hearing need not be conducted according to technical rules relating to evidence and witnesses. The Judicial Review Committee shall conduct the hearing in a manner it deems impartial to both parties. The Program Director and resident/fellow attend and meet individually with the Judicial Review Committee. Any party shall be given a reasonable opportunity, on request, to refute matters of record by evidence or by written or oral presentation, or by reference to expert testimony by individuals having experience with the matter under review, or by reference to recognized articles and literature dealing with the matter.
4. **Hearing Decision:** The Judicial Review Committee may affirm, modify or reject the Program Director's recommendation. The Judicial Review Committee shall issue a written decision with recommendations to the Program Director, to the resident/fellow and the DIO. In the event of an adverse decision, the resident/fellow may choose to appeal the decision to the GMEC.

### D. APPEAL PROCESS

1. **Request for Appeal:** A resident can request an appeal by submitting a written request for appeal to the DIO no later than ten (10) calendar days after the date of the written decision by the Judicial Review Committee. If an appeal is not requested within the ten-day period,

the resident waives any right to an appeal by the GMEC. The DIO may then act upon the decision of the Judicial Review Committee.

2. **Dean's Council for Graduate Medical Education (GMEC)**: At UAB, the GMEC is called the Dean's Council for Graduate Medical Education (DCGME). The GMEC will meet to review the record and report of the Judicial Review Committee. No new evidence will be accepted or reviewed by the GMEC. The GMEC may, at its discretion, interview the program director and/or resident/fellow.
3. **Decision**: If the GMEC proposes to modify or reject a decision by the Judicial Review Committee, the GMEC will meet with the Judicial Review Committee to discuss the matter prior to issuing a final decision. A final written decision of the GMEC will be rendered after the meeting with the Judicial Review Committee and the decision shall constitute the final decision of UAB.