The Ohio State University Medical Center

GRADUATE MEDICAL EDUCATION
POLICY AND PROCEDURE

Policy: RESIDENT DUE PROCESS POLICY

Effective: 11/28/01

Revised: 6/28/06, 12/17/03

In this policy, the term “resident” includes all interns, residents and fellows in GME training programs.

Procedure:

The purpose of the policy is to describe the Graduate Medical Education due process and to establish appeals/grievance procedures consistent with the principles of due process related to both evaluations and academic/administrative adverse actions. These procedures provide guidance for the fair resolution of disputes regarding the resident’s performance and conduct.

I. General Guidelines:

A. Promotion and re-appointment of a resident as well as completion of a training program is contingent upon the resident's satisfactory performance in meeting knowledge, performance and behavior standards and expectations as set by the institution and program within various program, institutional and University policies, and the annual Limited Staff Agreement.

B. If a resident does not satisfactorily meet the standards and expectations, the resident may be subject to a variety of adverse actions as outlined in the policy entitled “Academic and Administrative Adverse Actions.”

II. Challenging a Performance Evaluation:

A. The resident has the right to challenge the accuracy of a written or electronic evaluation of his/her performance.

B. As a first step, the resident should meet with the Program Director to discuss the evaluation. The resident should present their concerns with the evaluation in as objective a manner as possible. For example, a concern may be that the faculty member did not have sufficient exposure to the resident during the evaluation period to form an objective opinion or complete an evaluation.
C. As a result of that conversation, the Program Director may decide:
   1. to uphold the evaluation and include it in the resident’s record
   2. may decide to not act on the evaluation at that time but to keep it in the resident’s record for future reference
   3. may decide to not act on the evaluation and to purge it from the resident’s record.

D. The Program Director should document the date of the meeting, the stated reasons that the resident is challenging the evaluation, and their final decision regarding the disposition of the complaint in a memo in the resident’s file for future reference.

E. If the resident’s concerns about the evaluation are not satisfactorily resolved after talking with the Program Director, the resident may choose to meet with the program education committee and or housestaff competency committee to present rebuttal evidence.
   1. The committee shall hear the resident’s concerns and provide direction back to the Program Director regarding the disposition of the evaluation.
   2. After receiving the input of the committee, the Program Director will make a final decision on the disposition of the evaluation.
   3. This final decision should be documented in the resident’s file.

III. Appealing an Adverse Action:

A. The appeals process for adverse academic and administrative actions taken under the policy entitled “Academic and Administrative Adverse Actions” are dealt with in this policy. The appeals process for adverse actions taken under the Medical Staff Bylaws is defined in the Medical Staff Bylaws.

B. Academic adverse actions are defined in the “Academic and Administrative Adverse Actions” policy to include the following:
   1) Focused review that does not extend the length of the training. This action is not eligible for appeal under any circumstances.
   2) Focused review that does extend the length of training.
   3) Probation
   4) Suspension
   5) Non-promotion
   6) Non-renewal
   7) Termination

C. An appeal of an adverse action must be made in writing by the Resident to the Program Director within fourteen days after receipt of the written notice of the adverse action. If the Resident does not make a timely appeal, the decision of the
Program Director regarding the adverse action is final and adverse action will be implemented.

D. If a Resident or Fellow is enrolled in the combined program for Internal Medicine/Pediatrics, the due process and appeals procedures for academic-related adverse actions will be those delineated in the guidelines, handbook or policies of the training program that take into account the oversight of the faculty from both OSU and Children’s. This will ensure that appropriate due process occurs and will ensure that there is not duplication of processes in both institutions.

E. If an appeal is made, an appeal committee will be appointed by the Associate Dean for GME. The composition of the appeal committee will be as follows:
   1) The Associate Dean for GME will function as the chair of the appeal committee.
   2) Three program directors not from the clinical department of the program in question (preferably members of the GME Committee).
   3) One resident not from the clinical department of the program in question (preferably a member of the Residents Advisory Council).
   4) Individuals selected to be on the appeal committee should not have first-hand knowledge of the resident’s performance (e.g., appeal committee members should not have directly supervised or been supervised by the resident in the past).

F. The basis of the resident’s appeal may include, but not be limited to, one of the following concerns:
   1) The Program Director did not follow appropriate procedures in the consideration of the original adverse action decision.

G. The appeal committee will function using the following procedures:
   1) The appeal committee will meet within fourteen days of the receipt of the written appeal.
   2) The appeal committee meeting will be scheduled to provide sufficient time for the committee members to receive the information necessary to make a final decision regarding the appeal. If a majority of committee members feel that additional time is necessary to either gather additional information or to deliberate, an additional meeting will be scheduled by the chair.
   3) A complete copy of the resident’s evaluation file and the written notification of the adverse action should be supplied to the appeal committee in advance of the committee meeting.
   4) The recommendation of the program education committee or housestaff competency committee to the Program Director regarding the original adverse action shall be presented to the appeal committee.
   5) During an appeal hearing, the Resident may submit written or oral evidence in support of an appeal, may call others with substantive knowledge of the case to present evidence, and may choose to be represented by a member of the teaching faculty acting as an advocate for the Resident.
6) The Program Director may also submit additional written or oral evidence beyond items (3) and (4) above and may call others with substantive knowledge of the case to present evidence in support of the adverse action.

7) The hearing is not controlled by legal rules of evidence nor procedure. No formal transcript of appeal committee meeting is required. Neither party may be represented by legal counsel at the hearing.

8) While the resident is presenting his/her case, the Program Director shall not be in the room. While the Program Director is presenting his/her case, the Resident shall not be in the room. After their respective presentations, the appeal committee may ask both the Resident and the Program Director to be present for further clarification of any facts.

9) At the conclusion of the presentations by the Resident and the Program Director, the members of the appeal committee will deliberate on the final disposition of the appeal with neither the Resident nor the Program Director in the room.

10) At the conclusion of the appeal committee’s deliberations, the committee chair will call for a vote to uphold, modify or reverse the original adverse action.

11) If additional meetings are required after the initial committee meeting as described in G above, a final determination by the appeal committee must be made within fourteen days of the first hearing committee meeting.

12) The chair of the appeal committee will notify both the Resident and the Program Director in writing regarding the committee’s decision within seven days of the decision.

13) The decision of the committee is final and may not be further appealed.

14) The final appeal committee decision must be properly documented in the resident’s file.