

**MARSHALL UNIVERSITY
JOAN C. EDWARDS SCHOOL OF MEDICINE
GRADUATE MEDICAL EDUCATION**

POLICY ON RESIDENT/FELLOW APPEAL PROCEDURE

SECTION 1. STATEMENT AND SCOPE OF POLICY

The Accreditation Council for Graduate Medical Education (ACGME) requires that sponsoring institutions provide fair and reasonable written institutional policies and procedures for grievance and due process. These grievance policies may be utilized when academic or other disciplinary actions taken against residents/fellows result in dismissal, non-renewal of a resident's/fellow's agreement or other actions that could significantly threaten a resident's /fellow's intended career development, including non-promotion to a subsequent PGY/Fellowship level.

SECTION 2. DEFINITIONS

For the purposes of this policy, the following definitions have been established:

- 2.1 Working days- 8:00 a.m.- 4:30 p.m, Monday through Friday exclusive of days when the Joan C. Edwards School of Medicine is legally closed. This does not necessarily include those days recognized by the University Physicians and Surgeons or the University as holidays. It should be noted that the University is closed the week between Christmas and New Year's. For a complete list of School of Medicine holidays, go to <http://muwww-new.marshall.edu/human-resources/> and <https://musom.marshall.edu/ups/handbook/sec4.asp#1>
- 2.2 Preferred Method of Notification- The means of official notification preferred by the resident/fellow in which the resident/fellow prefers to be notified of actions pertaining to his/her appeal. Notification means may include but not be limited to e-mailing, certified mail or faxing.

SECTION 3. APPEAL PROCEDURE

- 3.1 Within five (5) working days of receiving official written notice of a decision leading to dismissal, non-renewal of contract, or other adverse action, a resident/fellow may request an appeal of that decision be reviewed by the Ad Hoc Appeals Committee. The resident/fellow must make this request, in writing, to the Sr. Associate Dean for Graduate Medical Education.
- 3.2 The request for appeal must be postmarked or received in the office of the Sr. Associate Dean for Graduate Medical Education by 4:30 p.m. of the fifth (5th) working day after receipt of written notice of the decision outline in herein 3.1.

- 3.3 Electronic communications (e-mail or facsimile) will be accepted but an original, signed hard copy must be received within 2 working days of the electronic communication..
- 3.4 Appeals received after that time will not be considered and the decision will be final.

SECTION 4. LEVEL ONE APPEAL- AD HOC APPEALS COMMITTEE

- 4.1 Within fifteen (15) working days of the receipt of the resident's/fellow's appeal, the Ad Hoc Appeals Committee membership will be convened to review the adverse decision.
- 4.2 The Ad Hoc Appeals Committee will consist of four Joan C. Edwards School of Medicine (MUSOM) program directors, one MUSOM resident or fellow, and one MUSOM faculty member, all to be selected by the Senior Associate Dean for Graduate Medical Education. The Sr. Associate Dean shall also select the Chair of the Ad Hoc Appeals Committee from this membership.
- 4.3 The resident/fellow may choose an additional MUSOM program director and a MUSOM faculty member to be on the committee and must notify the Senior Associate Dean of the two (2) names in writing by 4:30 p.m. within five (5) working days of submission of his/her appeal as provided in 3.1 herein. Submissions made after that time will not be accepted.
- 4.4 The Ad Hoc Committee members (appointed by Sr. Associate Dean or the appealing resident/fellow) may not be from the program involved in the appeal.
- 4.5 The Sr. Associate Dean for Graduate Medical Education shall notify the resident/fellow, by preferred method notification, of the date, time and location of the meeting.
- 4.6 The Ad Hoc Grievance Committee will review the resident's/fellow's record of performance and any relevant documents. Additional information may be requested as the members deem necessary.
- 4.7 The resident/fellow may present any relevant information or testimony from any colleague or faculty member. The resident/fellow may appear with legal representation during the Ad Hoc Committee hearing which will be recorded.
- 4.8 All information and recordings provided at the hearing may be reviewed during the final level of appeal.
- 4.9 The hearing will include the following steps:
 - 4.9.1. Statement of Purpose by the chair of the committee.

- 4.9.2. Introduction of the committee members.
 - 4.9.3. Opening Statement by the Program Director or Chair seeking the action.
 - 4.9.4. Opening Statement by the resident/fellow.
 - 4.9.5. Program Director or Chair or their attorney presents information and witnesses relevant to why they are recommending the adverse action.
 - 4.9.6. The resident/fellow or his/her attorney presents the relevant information/testimonies by colleagues/faculty supporting their reasons why the action should not be taken.
 - 4.9.7. The parties and the committee may ask questions of any witnesses presented.
 - 4.9.8. The committee may ask questions/clarifications asked of the resident/fellow and/or program director by the Committee.
 - 4.9.9. Deliberation by the committee (Closed Session)
- 4.10 During the grievance hearing, the committee will consider the following questions:
- 4.10.1. Was the resident's/fellow's performance judged using the same criteria and instruments as those used for other residents/fellows in the program?
 - 4.10.2. Was the resident/fellow notified of the specific deficiencies to be corrected?
 - 4.10.3. Was the resident/fellow instructed to correct the deficiencies?
 - 4.10.4. Was the resident/fellow placed on formal academic remediation? (If the resident/fellow was not placed on "formal academic remediation," the program director must provide the reasons for that action)
 - 4.10.5. Was the resident's/fellow's performance reevaluated according to the terms of the remedial program? And,
 - 4.10.6. Was there any evidence submitted which would indicate either that the action should not be taken or otherwise be mitigated?

- 4.11 After the committee discusses and answers the six questions above, it will then issue an opinion to the resident/fellow via preferred method of notification with hard or electronic copy to Sr. Associate Dean for Graduate Medical Education and the program director and Department Chair.
- 4.12 Such decision must be issued within ten (10) working days of the Level 1 hearing.

SECTION 5. LEVEL TWO APPEAL – SR. ASSOCIATE DEAN, GME

- 5.1 Should the resident/fellow not be satisfied with the decision of the Ad Hoc Committee, the resident/fellow may appeal the Ad Hoc's Committee's decision to the Sr. Associate Dean for Graduate Medical Education.
- 5.2 The request for appeal must be postmarked or received by the Sr. Associate Dean for Graduate Medical Education by 4:30 p.m. of the fifth (5th) working day following the resident's/fellow's receipt of the Level 1 decision.
- 5.3 Electronic communications (e-mail or facsimile) will be accepted but an original, signed, hard copy must be received within 2 working days of the electronic communication..
- 5.4 Appeals received after that time will not be considered.
- 5.5 After receipt of the appeal, the Sr. Associate Dean for Graduate Medical Education shall review any additional information provided by the resident/fellow as part of the appeal, the committee's decision and any relevant material or information provided during the Level One Hearing.
- 5.6 The Sr. Associate Dean for Graduate Medical Education will make a determination as to whether all policies and procedures were followed concerning the action taken against the resident/fellow and that the action taken is appropriate under the facts and circumstances presented.
- 5.7 Within fifteen (15) working days of receipt of the appeal, the Sr. Associate Dean for Graduate and Medical Education shall consult with the Dean and issue a decision, in writing, to the resident/fellow via preferred correspondence method with hard or electronic copy to the program director and department chair.
- 5.8 Should the adverse action be overturned by the Sr. Associate Dean of Graduate Medical Education, the Sr. Associate Dean will inform in writing the affected resident/fellow of the decision and the program director.
 - 5.8.1. If it is decided to reinstate the resident/fellow to his/her original status, the Sr. Associate Dean and the program director will meet with him/her

to explain any required terms of reinstatement. A formal letter will be provided during the meeting stating the required terms of reinstatement.

5.8.2. The resident is NOT entitled to legal representation during the reinstatement meeting.

5.9 The Sr. Associate Dean for Graduate Medical Education's decision is final.