

**MARSHALL COMMUNITY HEALTH CONSORTIUM
GRADUATE MEDICAL EDUCATION COMMITTEE**

DUE PROCESS POLICY

SECTION 1. POLICY STATEMENT

- 1.1 Residents are entitled to due process, as described in this policy and the Policy on Resident Appeal Procedure whenever disciplinary action is contemplated to be taken against a resident which may result in probation, suspension, demotion, non-renewal or dismissal from a program. Disciplinary action may be taken for:
 - 1.1.1. Non-performance of contractual duty:
 - 1.1.1.a. Academic or knowledge-based reasons (such as failure to meet educational and training standards or requirements).
 - 1.1.1.b. Examples of Non-performance of contractual duty include absence without leave from assigned duty, refusing specific assignments, habitual tardiness, engaging in unapproved outside
 - 1.1.2. Professionalism, including any prohibited conduct as defined by the Consortium or Institutional Professionalism Policy or in violation of any hospital or medical board policy or procedure or any other professionalism policy or procedure deemed appropriate.
- 1.2. Residents who seek review of a notice of dismissal, non-renewal of a Resident's agreement appointment, dismissal through the due process will be subject to the due process as outline in the Policy on Resident Appeal Procedure.
- 1.3. This policy is meant to complement the Policy on Resident Appeal Procedure and not contradict. Whenever a contradiction or otherwise unclear statement is construed, the due process provisions of the Policy on Resident Appeal Procedure shall prevail.

SECTION 2. DUE PROCESS PROCEDURE FOR BRINGING GENERAL GRIEVANCES

- 2.1. A general grievance may be brought regarding any matter affecting the terms and conditions of a resident's training, except for academic or job performance, Corrective Action, or discrimination. Residents may pursue general grievances as follows:

- 2.1.1. The resident should first attempt to resolve the grievance informally by consulting with the chief resident, senior fellow, appropriate faculty, or the program director.
 - 2.1.2. If the resident is unable to resolve the grievance informally, the resident may submit the grievance in writing to the Department Chairperson. The Department Chairperson will issue a written decision to the resident regarding the grievance within fourteen (14) business days.
 - 2.1.3. If the resident does not believe the grievance has been satisfactorily resolved, the resident may submit the grievance in writing to the Designated Institutional Official (DIO) within five (5) business days of receipt of the Department Chairperson's decision. The DIO (or appropriate designee) will issue a written decision to the resident regarding the grievance within fourteen (14) business days.
- 2.2. The decision of the DIO is final and binding.

SECTION 3. DUE PROCESS PROCEDURE FOR APPEALING CORRECTIVE ACTION

- 3.1. A resident may appeal a Corrective Action receive pursuant to the Policy on Resident Appeal Procedure.
- 3.2. Corrective Actions include but is not limited to academic or other disciplinary actions taken again residents that result in dismissal, non-renewal of a resident's agreement or other actions that could significantly threaten a resident's intended career development, including non-promotion to a subsequent PGY/Fellowship level.

SECTION 4. BURDEN OF PROOF

- 4.1. The appealing resident has the burden to demonstrate, by clear and convincing evidence, that the Corrective Action issued by the program was arbitrary and capricious.
- 4.2. For the purposes of this policy, "Clear and convincing evidence" means the evidence presented by the resident is highly and substantially more probable to be true than not. "Arbitrary and capricious" means there was no reasonable basis for the Program's decision to take the Corrective Action.

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Approved by DIO: August 8, 2014