

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

POLICY ON RESIDENT 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 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 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 in which the Resident 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 may request an appeal of that decision be reviewed by the Ad Hoc Appeals Committee. The Resident must make this request, in writing, to the Designated Institutional Official (DIO).
- 3.2 The request for appeal must be postmarked or received in the Consortium Office 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 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 two Consortium Graduate Medical Education Committee members, 1 Consortium BOD member, one Consortium resident, and one Consortium faculty member all to be selected by the DIO. The DIO shall also select the Chair of the Ad Hoc Appeals Committee from this membership.
 - 4.2.1. In the case of only one RRC approved program, faculty members from another site will be appointed.
 - 4.2.2. In the case of only one RRC approved program, the resident member shall not be the same year.
- 4.3 The Ad Hoc Committee members (appointed by Consortium DIO or the appealing Resident) may not be from the program involved in the appeal. If only one residency program has been approved by the RRC, then positions may be vacant if a conflict of interest is evident. The DIO may approve or reject any name if a conflict of interest is deemed evident.
- 4.4. The DIO shall notify the Resident, by preferred method notification, of the date, time and location of the meeting.
- 4.5. The Ad Hoc Grievance Committee will review the Resident's record of performance and any relevant documents. Additional information may be requested as the members deem necessary.
- 4.6. The Resident may present any relevant information or testimony from any colleague or faculty member. The Resident may appear with legal representation during the Ad Hoc Committee hearing.
- 4.7. All information provided at the hearing may be reviewed during the final level of appeal.
- 4.8 The hearing will include the following steps:
 - 4.8.1. Statement of Purpose by the chair of the committee.

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

- 4.10 After the committee discusses and answers the six questions above, it will then issue an opinion to the Resident via preferred method of notification with hard or electronic copy to DIO and the Program Director.
- 4.11 Such decision must be issued within ten (10) working days of the Level 1 hearing.

SECTION 5. LEVEL TWO APPEAL – DIO

- 5.1 Should the Resident not be satisfied with the decision of the Ad Hoc Committee, the Resident may appeal the Ad Hoc's Committee's decision to the DIO.
- 5.2 The request for appeal must be postmarked or received by the DIO by 4:30 p.m. of the fifth (5th) working day following the Resident's receipt of the Level 1 decision.
- 5.3 Electronic communications (e-mail or facsimile) will be accepted.
- 5.4 Appeals received after that time will not be considered.
- 5.5 After receipt of the appeal, the DIO shall review any additional information provided by the Resident as part of the appeal, the committee's decision and any relevant material or information provided during the Level One Hearing.
- 5.6 The DIO will make a determination as to whether all policies and procedures were followed concerning the action taken against the Resident 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 DIO shall consult with the Dean and issue a decision, in writing, to the Resident 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 DIO, the DIO will inform in writing the affected Resident of the decision and the Program Director.
 - 5.8.1. If it is decided to reinstate the Resident to his/her original status, the DIO 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 DIO's decision is final.

Effective: July 1, 2016

Approved by CGMEC:

Approved by DIO:

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