

<b>UNIVERSITY OF MARYLAND MEDICAL CENTER GRADUATE MEDICAL EDUCATION POLICY AND PROCEDURE MANUAL</b>	<b>PAGE:</b>  1 of 3	<b>PROCEDURE NO:</b>  <b>GMS- C</b>
	<b>EFFECTIVE DATE: 10/1/2015</b>	
<b>SUBJECT:</b>  <b>Due Process Appeal Procedure</b>		
<b>APPROVALS:</b> <b>Graduate Medical Education Committee Approval: 09/24/2015</b>		

### 1. Purpose

UMMC has established this policy and procedure for contesting academic or other disciplinary action that could result in suspension, non-renewal of a resident or fellow's agreement, non-promotion of a resident or fellow to the next level of training, dismissal or any other action that could significantly threaten a resident or fellow's intended career development.

### 2. Scope/Definitions

This policy applies to all residents and fellows enrolled in UMMC-sponsored programs (collectively referred to herein as "resident(s)") who have received written notice of academic or other disciplinary action that could result in suspension, non-renewal of a resident or fellow's agreement, non-promotion of a resident or fellow to the next level of training, dismissal, or any other action that could significantly threaten a resident's intended career development.

The following matters are excluded from consideration under this policy:

- Complaints alleging discrimination or harassment on the basis of race, gender, color, creed, sex, national origin, disability, age, sexual orientation, gender identity, military status, marital status, for engaging in protected activity, or any other status protected by law. *Complaints of this nature should be referred to the University of Maryland Medical Center's Human Resources Department for investigation.*
- Complaints pertaining to salary, fringe benefits, or other broad areas of financial management and staffing.
- Complaints regarding individual rotational or other faculty evaluations.
- Interpersonal conflicts.

Please refer to GMS-Z Grievance Procedure (Complaint Procedure) for additional guidance related to exclusions.

As used in this policy, the term "business day" means Monday – Friday and excludes weekend days.

### Responsibility

It is the responsibility of all residents, Program Directors, employees, faculty, UMMC management and staff, and University of Maryland School of Medicine, School of Dentistry, and School of Pharmacy faculty working with residents to comply with this policy.

### 3. Appeal Process and Procedure

#### 4.1. Internal Discussion Prior to Appeal

Before bringing a grievance under this policy, a resident should first discuss the matter with the Residency Program Director, his/her training program faculty or the department chair.

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#### 4.2 Initiation of Appeal

A resident who faces academic or other disciplinary action that could result in suspension, non-renewal of a resident or fellow's agreement, non-promotion of a resident or fellow to the next level of training, dismissal, or other actions that could significantly affect the resident's intended career development has five (5) business days after receiving written notice of such action to request a hearing under this policy. The request must be in writing, signed and dated and include a complete factual description of the complaint or the action leading to the grievance, along with any other information that the resident believes will be relevant or helpful.

A resident who elects to resign from his/her program in lieu of termination or similar action is eligible to appeal the action that prompted the resignation.

#### 4.3 Selection of Panel

Within 10 business days after the GME Director receives the written request for an appeal hearing, the GME Director, in consultation with the Designated Institutional Official ("DIO"), will select three individuals to serve on the hearing panel (the "Panel"). The Panel shall consist of two members of the faculty and one resident. No member of the Panel shall have participated in the decision or action that the resident is grieving. In addition, if the resident makes a request, no member of the Panel shall have previously been substantially involved in any other decision or action directly involving the resident.

#### 4.4 Scheduling of Hearing

The hearing will be scheduled no more than 30 days after the receipt of the written request for the grievance hearing meeting the criteria described above. The resident, Program Director, and GME Director may mutually agree to a date that is outside of the 30-day window.

#### 4.5 Conduct of Hearing

The resident and the program representative(s) or their designees will present statements and may present testimony of witnesses or documentary evidence to support the position taken.

The order of presentation will be as follows: (1) resident presentation; (2) Program presentation; (3) resident rebuttal. Additional presentation may be permitted at the discretion of the GME Director.

The GME Director may establish reasonable time limits for the presentation of statements, testimony and documentary evidence.

Legal counsel for both parties may be present but may not participate in the grievance hearing except to advise the respective party as client. The hearing will be closed, and its proceedings are confidential. The grievance hearing will be recorded by UMMC using a court stenographer.

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A legal representative from the Office of the General Counsel will be present to record the Panel's recommendations. The legal representative serves as counsel to the panel and communications between counsel and the panel are subject to the attorney-client privilege.

If the resident fails to appear for his/her grievance hearing without good cause, the resident will be deemed to have waived his/her request for a hearing.

#### 4.6 Recommendation of Panel

The Panel will determine whether: the resident was provided with notice of the conduct or deficiencies that led to the academic or disciplinary action being appealed; the resident was provided the opportunity to cure those deficiencies; and, that the academic or disciplinary decision was made carefully and deliberately and is appropriate under the circumstances. The decision will be made by majority vote. Within a reasonable time after the conclusion of the hearing, the Panel will submit a recommendation to the Chief Medical Officer.

#### 4.7. Decision of Chief Medical Officer

At his/her discretion, the Chief Medical Officer may consider additional evidence and may order a new hearing. The CMO will render a decision within 10 business days of receiving the panel's final recommendation and will provide a copy to both the resident and residency program. The CMO's decision is final and binding on all parties.

#### 4.8 Maintenance of Record of the Grievance Hearing

The GME Office shall maintain the documentation from the grievance hearing for at least four years (4) from the date of the grievance hearing. The resident may obtain a copy of the record upon paying the cost of reproduction.

#### 4.9 Delegation

In the unusual event that the Chief Medical Officer is not available, he/she may delegate responsibilities under this policy first to the Assistant Chief Medical Officer, then the Designated Institutional Official, then to the Associate Designated Institutional Official.

#### 4.10 Time

As long as the parties are acting in good faith, if they are unable to observe the time limits provided in the preceding sections of this policy, the times shall be extended without prejudicing or increasing the rights of any party.