Policy: Grievance Policy

Original Approval: June 9, 2004 | Effective Date: | Revision Date:
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| | | May 18, 2010
| | | April 6, 2011
| | | July 10, 2014

In this document, “Resident” refers to both specialty Residents and subspecialty Fellows.

**Grievance Policy:**

If a Resident believes s/he has been wrongfully suspended from the program, dismissed, not renewed or renewed without promotion the grievance procedure described below can be invoked. The process is intended to protect the rights of the Resident and the training program and to ensure fair treatment for both parties. Grievances are limited to allegations of wrongful dismissal, wrongful suspension, wrongful nonrenewal or wrongful renewal without promotion of the annual Resident Training Agreement. Being placed on probation and immediate suspension from clinical responsibilities are not grievable.

The decision to suspend a Resident from the program, dismiss, not renew or renew without promotion is an academic responsibility and is the decision of the University of Colorado School of Medicine Graduate Medical Education programs.

In all cases of suspension from the program, dismissal, nonrenewal or renewal without promotion of a contract, it is expected that the appropriate probationary and remedial periods will have occurred as prescribed in this manual. However, as discussed in this document there may be instances where immediate suspension without probation or remediation will occur.

All “written notification” associated with the formal grievance process shall be by certified mail.

Academic actions, including non-promotion, non-renewal or termination as a consequence of failure to meet performance requirements in the USMLE policy are not grievable under terms of the GME Disciplinary Action policy.

**Grievance Procedure:**

1. **Notification of intent to appeal:** Any Resident who is suspended from the program, dismissed or whose Resident Training Agreement is not renewed or renewed without promotion shall be informed of the decision in person and/or by certified mail. The Resident who receives said notice may appeal the dismissial, suspension, nonrenewal or renewal without promotion. Any appeal by the Resident must be received by the Program Director within ten (10) calendar days of the Resident’s receipt of the certified notice, or personal notice, whichever occurs first. However, in the event the Resident refuses to accept the notice or otherwise does not receive the certified notice, the University will presume that the certified notice is received within three (3) business days following dispatch from the University. In that case, the Resident will have ten business days, plus three business days for a total of thirteen (13) days from the date of dispatch to file an appeal. A dated return receipt from the United States Postal Service shall be conclusive proof of an “attempt to deliver the notice.”

2. **Assembly of review committee:** Upon receipt of an appeal, the Senior Associate Dean for Education (or designee) will convene an ad hoc committee to review the Resident’s case. The committee shall seek advice from University counsel who shall be present for the hearing to
advise the committee. The review committee may also seek advice from outside experts in the field of the Resident’s specialty if deemed necessary. The review committee will include the Senior Associate Dean for Education (or designee), one full-time faculty member from a different training program and one representative from the Housestaff Association who is in a different clinical training program. The Senior Associate Dean for Education will chair the review committee. The Resident may object to a member of the review committee for cause. The Senior Associate Dean for Education has sole discretion to replace a member if deemed warranted.

3. **Hearing:** The review committee will assess the merits of the decision at issue and hear evidence and arguments by the Resident and the Program Director, Department Chair or Division Head. Since the hearing is an academic proceeding, the rules of evidence shall not apply.

The Program Director and Department Chair or Division Head are obligated to present to the review committee the reasons for and substantiating evidence in support of the decision at issue. The Resident and Program Director may present documents or letters of support and call the testimony of witnesses. The Resident may question witnesses who testify on behalf of the Program Director, Department Chair or Division Head. Witnesses called by the Resident may be questioned by the Program Director, Department Chair or Division Head.

The review committee shall tape record the hearing proceedings, but not its deliberations. Either party may, at its own expense, have a verbatim transcript made of the proceedings by a court reporter. Both parties may request a copy of the tape recording that was made by the committee.

The Resident may be represented by an attorney in an advisory capacity, but the attorney may not function as a spokesperson for the Resident during this grievance process.

4. **Final Determination:** The review committee will not overturn or modify the academic decision at issue unless, by majority vote, it concludes that the Resident has established by a preponderance of the evidence that the decision at issue was arbitrary or capricious. The review committee will make its determination within thirty (30) calendar days from the close of the hearing. The review committee will notify the Resident and Department Chair, or Program Director and the Associate Dean of Graduate Medical Education (in writing) of its decision. The decision of the committee is final. Should the Resident be reinstated, the review committee may impose an additional period of probation as a condition of continuation.