



RESIDENCY TRAINING PROGRAMS

Appeal Policy

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1 Purpose

- 1.1 The appeal processes for resident evaluation results, remediation, probation and dismissal of residents ensures fairness and a transparent environment. Residents have the right to appeal any decision made that they perceive as being unjust.

2 Scope

- 2.1 This policy applies to all Residents in all Residency Training Programs

3 Jurisdiction

- 3.1 The criteria for unsatisfactory or marginal performance is determined by the Program Committee of each residency program
- 3.2 A Resident may appeal one or more of the following:
 - 3.2.1 An end of rotation evaluation report is overall “unsatisfactory”
 - 3.2.2 An end of rotation evaluation report which is “marginal” or noted as satisfactory but with specific performance deficiencies
 - 3.2.3 Requirement for probation
 - 3.2.4 Failed remediation
 - 3.2.5 Failed probation
 - 3.2.6 Dismissal
- 3.3 Pending the disposition of an appeal, the Program Committee shall determine if a Resident may continue with regularly scheduled rotations or whether alternative arrangements such as a leave of absence are necessary.

4 Process and Decisions

Initiating an Appeal

- 4.1 The resident should make the appeal to the Program Director within two-week period of the date that resident being informed of the results of any of the items above.



- 4.2 Appeal Notification should include the following:
 - 4.2.1 The date of the decision that the appeal made against and the date the resident was informed of.
 - 4.2.2 The issue of the decision that the appeal is made against and the reasons that appeal is based upon with any relevant evidence or documents
- 4.3 For an appeal of a rotation evaluation report, the Program Director forwards the letter of appeal to the faculty member who signed evaluation report (Preceptor)

Pre-Appeal Resolution

- 4.4 After an appeal has been filed the Program Director, Preceptor, Resident and Faculty Advisor are encouraged to meet to attempt a resolution of the issues. Where an evaluation report has multiple contributors, a representative of the group may participate
 - 4.4.1 The above meeting for the resolution of the issue should be conducted and completed no later than 14 days after the filing of an appeal by the resident.
 - 4.4.2 The decision of the resolution meeting should be clearly documented and placed in the Resident's file.
 - 4.4.3 If a mutually satisfactory resolution to the Resident's appeal is not reached at the end of the meeting, the Residency Program Committee must formally hear the appeal within 30 days of the pre-appeal resolution meeting, unless both parties agree in writing to an extension of time.

Residency Program Committee Level Appeal

- 4.5 Appeals are heard by the appropriate Residency Program Committee or a delegated sub-committee.
 - 4.5.1 The Residency Program Committee or a delegated subcommittee hears appeals unless this committee made the decision under appeal. In this circumstance, an Ad Hoc Departmental Committee must be formed.
 - 4.5.2 If the rotation under appeal occurred outside the Resident's home Program, the appeal review will be conducted by the Resident's home Program and home Residency Program Committee.

Timelines

- 4.6 Once the written appeal has been received by the RPC, the following timelines are in place:
 - 4.6.1 Pre-appeal meeting held without resolution: Appeal Hearing within 30 days of the meeting
 - 4.6.2 No pre-appeal meeting: Appeal Hearing within 40 days of receipt of written Notice of Appeal



RPC and Ad Hoc Departmental Appeal Committees

- 4.7 Prepared Guidelines for Appeal must be available to residents. If these guidelines are not available, the RPC should use guidelines for Ad Hoc appeals.
- 4.8 When an Ad Hoc Departmental Appeal Committee has been formed it must be chaired by the Departmental Chairman or a designate. It must have at least 5 members including the Chair:
 - 4.8.1 Faculty with experience in postgraduate medical education
 - 4.8.2 There should be at least one (1) Resident on the committee
 - 4.8.3 For a decision being appealed in which the Program Director was involved, he/she will present pertinent background information and the rationale for the decision made. However, the Program Director is not permitted to be a member of the committee or influence any decision.
- 4.9 The Resident is permitted to present his/her version of events and a support person can accompany the resident if he/she wishes.
 - 4.9.1 Prior to the hearing, the Chair will advise of the participation level permitted by the support person.
- 4.10 At least seven days prior to the hearing, the Resident will be advised of the location and timing. The Resident will also be advised of the composition of the Committee.
- 4.11 During the hearing, if previously non-submitted documents are introduced, the Resident and both the Program and the Appeal Committee can call for a postponement in order to review the documents and consider the response.
- 4.12 If new documents are introduced at the time of the hearing, the Resident, the Program and the Appeal Committee have the right to request a postponement in order to consider their response. An appropriate postponement of the hearing will be determined in order that all concerned parties can review the newly submitted evidence.
- 4.13 Once evidence has been presented and the attending parties leave the hearing room to deliberate, new evidence cannot be presented or introduced.
- 4.14 Once the case has been presented, all parties with the exception of the committee members their support staff will be requested to vacate the hearing room. Once the committee reaches a decision, it will be communicated. The committee's deliberations are confidential and closed ballot voting will determine the decision.
 - 4.14.1 The Chair and one other committee member will be responsible for counting the ballots.
 - 4.14.2 A majority vote will determine the final decision.
 - 4.14.3 Vote counts are confidential and therefore will not be noted in the Minutes of Meeting or announced in writing.
 - 4.14.4 At this stage, the Chair only announces whether the appeal was upheld or



denied.

- 4.15 The Minutes of Meeting will only reflect the motions put forward, final decisions made by the committee and a brief
- 4.16 The Chair will issue a letter stating the decision of the committee, which will include a summary of the reasons for the decision.
 - 4.16.1 The letter advising of the decision will be issued to the Resident, Program Director, and Vice Dean for Higher Studies & Scientific Research within 30 days of the hearing.
- 4.17 The decisions of the RPC and/or an Ad Hoc Departmental Appeal Committee in regard to items 3.2.1, 3.2.2, 3.2.3 and 3.2.4 are final and further appeals are not permitted.
- 4.18 Appeal decisions with respect to items 2.2.5; and 2.2.6 made by the RPC and/or an Ad Hoc Departmental Appeal Committee may be further appealed to the PGME Appeals Subcommittee, but only on the grounds of procedural unfairness or the apprehension of bias

5 Programs Administration Committee Level Appeal

- 5.1 The appeal to the PAC Appeals Subcommittee must be submitted by the Resident, in writing, to the Vice Dean for Higher Studies & Scientific Research within 14 days of receiving the written decision regarding the previous appeal at the Departmental level. The appeal to the PAC Appeals Subcommittee must include:
 - 5.1.1 A copy of the decision under appeal
 - 5.1.2 A description of how the grounds of procedural unfairness and/or apprehension of bias apply to the decision under appeal
 - 5.1.3 The specific remedy that the resident is seeking from the PAC Appeals Sub-Committee in terms of outcome.
- 5.2 Substantive information will only be considered as required to fully understand the underlying basis of the appealed decision. Appeals to the PAC Appeals Subcommittee will not revisit substantive findings of the Department level committees unless it can be demonstrated by the Resident that the department level substantive findings are unreasonable due to procedural unfairness and/or apprehension of bias.
- 5.3 Within 14 days of receiving a request for an appeal, the Chair will respond indicating whether leave to hear the appeal has been granted or not, and where leave has not been granted, the reason(s) for this decision. The PGME Appeals Subcommittee will not hear any appeal until all other appeal processes mandate by this policy have been exhausted.



6 PAC Appeals Subcommittee

- 6.1 The PAC Appeals Subcommittee shall be comprised of nine members plus the Chair. This includes the following:
 - 6.1.1 Six randomly selected PAC Committee members, comprising two Residents and four sitting Program Directors
 - 6.1.2 Three clinical faculty members, external to the PAC Committee who are knowledgeable in residency and who did not serve as a Program Director or Associate Dean of PAC within the past three years. These three members should have experience or have previously demonstrated their interest in education policies, tribunal committees and/or the wellbeing of physicians.
- 6.2 The appeal committee will be chaired by the Vice Dean for Higher Studies & Scientific Research.
- 6.3 The Chair will provide a written list of members of the PGME Appeals Subcommittee to all parties no later than ten (10) days prior to the date of the appeal.
- 6.4 The Resident and the Program Director both can challenge the right of a member of the PAC Appeals Subcommittee to hear the appeal. The Chairperson shall judge the merits of the challenge.
 - 6.4.1 The Resident and/or Program Director must inform the Chair of any such challenge in writing at least seven (7) days prior to the appeal hearing
 - 6.4.2 If the challenge is successful, it may be necessary to reschedule the hearing.
- 6.5 The PAC Appeals Subcommittee will endeavor to hear an appeal without undue delay once the Office of PAC has received all required documents from the Resident and Program.
- 6.6 The Chair will provide at least fourteen (14) days written notice of the time and place of the appeal hearing to all parties.
- 6.7 Residents who have been dismissed will not be allowed to continue clinical activities and will not receive a salary during an appeal.

7 Appeal File for the PAC Appeals Subcommittee

- 7.1 The Resident and Program Director must provide copies of pertinent documentation to the Chair no later than ten (10) days prior to the hearing date. Notice should be given if it is anticipated that additional documents may be available closer to or during the hearing with the understanding that this may result in a postponed hearing.
- 7.2 The Program Director provides the following for inclusion in the Appeal file:
 - 7.2.1 An outline of the evaluation procedures
 - 7.2.2 The measures taken to advise the Resident that his/her performance was



- not satisfactory. This information should include any counseling sessions, the opportunities provided to the Resident to remedy the situation, and the feedback to the Resident on the effect of this remedial activity.
- 7.2.3 Evaluations and other materials determined to be relevant by the Program Director and or RPC regarding the Resident.
 - 7.2.4 Minutes of Meeting of the Departmental appeal hearing
 - 7.2.5 Any other information requested by the Chair.
- 7.3 Both parties can request any person to provide a written statement to be submitted at the PGME Appeals Subcommittee hearing.
 - 7.4 The Chair may also request the inclusion of documentation he/she deems relevant and provide this information to all parties ahead of the hearing.
 - 7.5 All documentation shall form part of the Record of Appeal.
 - 7.6 The Office of PAC will deliver the Appeal File to all parties no later than seven (7) days prior to the scheduled date of the hearing.

8 PAC Appeal Hearing

- 8.1 The Resident and Program Director may, with approval from the Chair, present copies of relevant documents not previously distributed. Either party may request a postponement in order to consider the documents not previously distributed.
- 8.2 The appeal hearing will proceed in the following order:
 - 8.2.1 The Resident will present his/her position first, after which the Resident will be questioned.
 - 8.2.2 The Program Director will present his/her case and another question period will follow.
 - 8.2.3 Each party and the Committee will have the opportunity to ask questions of clarification.
 - 8.2.4 Questions directed between the Resident and the Program Director and vice versa will be addressed via the Chair who will determine if the question is relevant to the topic at hand.
- 8.3 A support person and/or legal counsel can accompany the Resident.
 - 8.3.1 The Resident will notify the Chair in writing at least (7) days prior to the hearing date.
 - 8.3.2 If a support person accompanies the Resident, the support person may present the Resident's case if requested to do so by the resident. Additionally, the support person is permitted to speak on behalf of the Resident regarding relevant details.
 - 8.3.3 If the Resident wishes to have at the hearing, the Chair of the PAC Appeal Subcommittee will have the right to determine the level of participation of legal counsel. This will be communicated prior to the date of the hearing.



- 8.4 Other persons with knowledge of the circumstance, or experts in particular areas, may be invited by the Chair to appear at the meeting. The Chair will notify the resident and provide the names of any individuals invited to the hearing at least seven (7) days prior to the hearing.
- 8.5 Other persons beside the legal counsel who is allowed to appear before the PAC Appeals Subcommittee can make oral arguments. These persons can be questioned by the committee but the persons will not be allowed to ask questions.
- 8.6 A presentation during an appeal hearing is limited to a period of 20 minutes for each attending party.
- 8.7 Once the Resident and Program Director have completed their presentation, and the PAC Appeals Subcommittee have completed the questions, all participants other than the PAC Appeal Subcommittee members and the Chair will be requested to leave while the committee considers all the evidence and reaches a final decision.
- 8.8 All written and oral evidence presented at the hearing will be taken into account during the deliberations of the PAC Appeals Subcommittee. Although the committee will not determine the accuracy of any clinical assessment, it will determine whether the decision was as a result of a fair and unbiased process.
- 8.9 The committee's proceedings are confidential and closed ballot voting will determine the decision.
 - 8.9.1 The Chair will count ballots in conjunction with one other PAC Appeals Subcommittee member.
 - 8.9.2 Majority rules will apply.
 - 8.9.3 Vote counts are confidential and therefore will not be noted in the Minutes of Meeting or announced in writing.
 - 8.9.4 At this stage, the Chair only announces whether the appeal was upheld or denied.
- 8.10 The Chair will issue a letter stating the decision of the committee, which will include a summary of the reasons for the decision.
 - 8.10.1 The letter advising of the decision will be issued to the Resident, Program Director, and Vice Dean for Higher Studies & Scientific Research within 30 days of the hearing.

9 Upholding an Appeal

- 9.1 The PAC Appeals Subcommittee members vote to determine whether an appeal will be upheld. When the decision is tied, the Chair will cast the deciding vote.
- 9.2 If the PAC Appeals Subcommittee upholds the appeal, the committee can make appropriate recommendations related to the case or remedial activities.
- 9.3 If the committee upholds an appeal related to dismissal, the Resident can resume



his duties. However, the resident will be subject to all PAC evaluation policies.

- 9.3.1 Depending on results of the appeal, a Resident can either be reinstated to the program with a satisfactory status, which may or may not include remedial steps, or formal remediation, or the restarting of probationary rotations. Such a decision can either be made by the PAC Appeals Subcommittee or a decision may be deferred to the RPC.
- 9.3.2 If a Resident is reinstated to a satisfactory status and then receives two (2) failed evaluation reports, the committee will again consider whether the Resident should be put on probation.
- 9.3.3 If the appeal is upheld, the Resident will be reinstated.

10 Further Appeal

- 10.1 Appeal decisions made by the PGME Appeals Subcommittee may be further appealed to the General Faculties Council Student Academic Appeals Committee. Appeals must be submitted within fifteen (15) days.

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