

University of Pittsburgh
Medical Center
Medical Education Program
Policies and Procedures

Approved by:

GME Committee 1/11/1991
Latest Revision: 4/6/2004

Department: Graduate Medical Education

Title: **Grievance and Appeal Policy**

Purpose: Description of standards of performance in residency training and a description of procedures for resident/fellow grievances and appeals to the sponsoring institution

Scope: All UPMCMEP residents/fellows.

Responsible Parties: Designated Institutional Official; Vice President, Graduate Medical Education

Policy:

I. STANDARDS OF PERFORMANCE IN GRADUATE TRAINING PROGRAMS OF THE UNIVERSITY OF PITTSBURGH MEDICAL CENTER MEDICAL EDUCATION PROGRAM (UPMCMEP)

The clinical graduate training programs of the UPMCMEP are established for the purpose of providing specialized advanced educational instruction. Each clinical program is under the supervision of a senior full-time faculty member of the University of Pittsburgh School of Medicine. This program director may be the chief of the appropriate clinical service and/or the chairperson of the academic clinical department. Additional supervisors/instructors will be members of the Faculty of the School of Medicine who meet the academic standards set forth in the Faculty Manual of the University of Pittsburgh School of Medicine.

Entrance of a qualified resident or fellow (grades GMT 1 and higher) into a formal Graduate Training Program indicates an intention to continue until the completion of the program, subject to satisfactory academic progression and meeting prescribed professional standards. Appointment to each Training Program is for one year with succeeding reappointment based in part upon satisfactory performance and progression in the year completed.

The performance of each graduate physician in the educational process of the graduate training programs is under the direction and the evaluation of the academic physicians selected by the University of Pittsburgh to provide specialty instruction. Professional evaluation of residents and fellows will include not only academic and intellectual achievement, but also consideration of ethical and moral behavior and of judgmental capability in treating patients.

Each program has its own minimum standards of performance based upon program requirements and the ACGME general competencies. These standards and requirements will differ among programs and each program will provide to its trainees a statement that will include the following considerations:

- A. The goals and objectives of the Graduate Training Program;
- B. The standards of performance expected in carrying out the responsibility of patient care;
- C. The level of intellectual advancement required;

- D. The responsibilities entailed in relationships to senior staff, peers, trainees, and students;
- E. A description of the methods of assessment to be applied in judging trainee performance.

Each graduate medical education program has the responsibility of providing regular evaluations and feedback to the residents and fellows as describe in program requirements and in the UPMCMEP evaluation policy. This should occur after all major rotations or at least every three months. It should include written comments such as an evaluation form. Each resident or fellow should have access to all such evaluations and meet at least twice yearly with the program director to review his/her evaluations. This meeting should be documented in writing.

All programs should have clinical competency committees that should periodically review the evaluations and make recommendations for promotion into the next year of training. The composition of the competency committee may vary in each program but should include the program director and at least one member of the training program. The resident or fellow should be notified of evaluations indicating an unsatisfactory performance and a plan for remedial action, which should be documented and implemented. The competency committee may mandate whatever remedial or disciplinary actions it deems fair and appropriate for a given resident or fellow. This may include a requirement to repeat one or more rotations, a requirement for an additional period of training, denial or delay of board eligibility or dismissal from the residency program. When such actions are taken, the resident or fellow will be advised both verbally and in writing of the action being taken, the reasons for such action, and the right of appeal.

II. STANDARD FOR INITIATION OF GRIEVANCE

A resident or fellow may file a grievance if a reasonable basis exists to support allegations that he/she has been treated contrary to existing policies governing the residency training program.

III. STANDARD FOR INITIATION OF APPEAL

A resident or fellow may appeal disciplinary, remedial or other actions that could result in dismissal or significantly threaten a resident or fellow's status in or ability to graduate from, the program.

IV. PROCEDURE

a. Grievance

Actions alleged to constitute a grievance shall be filed in writing with the program director responsible for the resident or fellow's training program. Any alleged grievance must be filed within ten (10) days of the date on which the alleged grievance causation occurred. Any grievance not timely filed shall be waived and not processed under this policy. The program director shall review the alleged grievance of the resident or fellow in a timely manner and shall gather additional information and/or consult with appropriate individuals in order to fairly render a determination concerning the alleged grievance. If the resident or fellow disagrees with the decision of the program director, he/she may request in writing further review of the decision by the department chairperson whose decision shall be final. In cases where the department chairperson is also the program director, the resident may request in writing such further review by the Assistant Dean, Graduate Medical Education, University of Pittsburgh, School of Medicine, whose decision shall be final. The final decision on any grievance action shall be issued within thirty (30) days of the date that the grievance was filed, unless circumstances justify a reasonable delay as determined by the Assistant Dean, Graduate Medical Education.

b. Appeal

Actions alleged by a resident or fellow to constitute the basis for an appeal must be presented to the program director in writing within ten (10) days of the date on which the alleged actions underlying the appeal occurred. Any appeal not timely filed shall be waived and not processed under this policy. If satisfactory resolution of the resident or fellow's allegation is not achieved after discussion with the program director, then the resident or fellow, in writing, may request access to the formal departmental appeal procedure.

Each department may establish its own written procedure for the matters subject to approval by the Dean or his designee. Each departmental appeal procedure shall require creation of an initial department review panel composed of at least three members appointed by the department chairperson. The department chair will appoint at least one resident/fellow from the program after consultation with the program director. Other appointments to the review panel may be drawn from full time, part time or volunteer faculty, but should exclude the program director, or members of the program faculty who have been or may be involved in the allegations raised by the trainee which are the basis for the appeal. The chairperson of the review panel shall be a faculty member determined by majority vote of the panel.

The review panel shall conduct a fair and reasonable review of the allegations brought forward by the resident or fellow including but not limited to receiving oral and written information from the resident or fellow and any other appropriate individual who may be significant to the panel's review, evaluation and conclusions regarding the appeal. The review panel proceedings shall be closed to the public and may be restricted at any time to hearing a single individual in the absence of all other witnesses. In these proceedings, the resident or fellow may, at his/her sole expense, have an advisor who may be an attorney and who may assist the resident or fellow in questioning witnesses to reasonably evoke evidence. Likewise, the review panel may have an advisor who may be an attorney. All evidence and testimony may be subject to inquiry by the review panel. Formal rules of evidence or legal procedure do not need to be followed as long as a reasonable opportunity is made available to the trainee to present his/her position to the review panel. The review panel shall maintain a written record of its findings, conclusions and decisions, a copy of which shall be provided to the trainee. The written record of the review shall be issued within thirty (30) days of the date that the appeal was filed unless, circumstances justify a reasonable delay as determined by the Assistant Dean, Graduate Medical Education .

V. APPEAL TO THE DEAN BY GMT

In the event that the departmental appeal procedure upholds the department's actions, the resident or fellow may further appeal the decision to the Dean of the School of Medicine or his designee. This recourse is available to all residents and fellow of the programs sponsored by the UPMCMEP but only after departmental review has been exhausted. If the resident or fellow wishes to appeal the departmental decision, he/she will notify in writing the Assistant Dean, Graduate Medical Education, the department chairperson, the program director, and the hospital of the trainee's appointment. The resident or fellow must include a sufficiently detailed written description of the appeal and authorization to review all pertinent department records, including the departmental review procedure records. Failure to give written notice of appeal within ten (10) days of receipt of the department's final action will result in waiver of all appeal rights.

Upon receipt of this request, the Assistant Dean, Graduate Medical Education will review the appeal and pertinent records and determine if there is a sufficient basis for an appeal hearing. Only in the case of dismissal from a program or failure to promote a resident or fellow to the next level of training will a hearing always be granted. If a hearing is granted, the Assistant Dean, Graduate Medical Education will then select three members of the standing Appeals Subcommittee of the Committee for GME to serve as the Hearing Committee. The Assistant Dean also may select other members of the Committee or the Faculty of the School of Medicine to serve this role. Faculty with an appointment in the academic department providing the training program will be excluded. The Assistant Dean shall give the Hearing Committee its charge in writing within

ten (10) days of the acceptance of the trainees' written appeal. The Assistant Dean shall also determine whether the appellant's salary and fringe benefits shall continue throughout the appeal process.

VI. GUIDELINES FOR HEARING COMMITTEE

The function of the Hearing Committee is to review the action of the Program and Department. The purpose will be one of inquiry to determine, upon the basis of the evidence submitted, whether the Program and Department's actions were arbitrary, capricious or not based upon substantial evidence. The hearing shall be closed to the public and may be restricted at any time to hearing a single individual in the absence of all witnesses. In this process, the appealing resident or fellow may have an advisor who may assist the resident or fellow in questioning witnesses to evoke evidence.

The Hearing Committee shall elect a chairperson and maintain a written record of the proceedings. The conduct of the hearing will be at the discretion of the Chairperson. The Hearing Committee may have an advisor who may be an attorney to assist the Committee.

The Hearing Committee may request that the program director offer an explanatory statement of the action, which may include presenting evidence, testimony or witnesses. Evidence presented by the program director may be subject to questioning by the appellant. If the allegations were previously considered by a departmental review panel, the Hearing Committee may also ask the chairperson of that review panel to give testimony and furnish a copy of its written record. The appellant may then present objections and offer reasons, evidence, or testimony of witnesses. All evidence and testimony will be subject to inquiry by the Hearing Committee and questioning by the program director. Finally, the Hearing Committee may initiate receipt of evidence, testimony, or witnesses from other sources depending upon the need that the panel members have for additional pertinent information. Formal rules of evidence or legal procedure do not need to be followed so long as a reasonable and fair opportunity is made available to the appellant to present his/her position to the Hearing Committee.

A written recommendation will be composed by the Committee. This will form the final report and advice of the Hearing Committee to the Dean of the School of Medicine or his/her designee. The report shall be issued within forty (40) days from the date that the Committee received its charge from the Assistant Dean.

VII. ACTION BY THE DEAN

Within ten (10) days of receipt of the Hearing Committee report, the Dean of the School of Medicine or his/her designee will review the recommendations of the Hearing Committee, and utilizing additional information deemed pertinent, including but not limited to conferring with the Committee or any of the parties to the procedure, will render a decision in the matter. This decision is final and will govern the resident or fellows participation in the academic program. This will exhaust the appeal mechanism for the resident or fellow. A copy of the decision will be provided to the resident or fellow, and to the Assistant Dean, Graduate Medical Education, the department chairperson, the program director, and the hospital of the resident or fellow's appointment.