

SUNY DOWNSTATE MEDICAL CENTER  
GME POLICIES AND PROCEDURES



**SUNY**  
**DOWNSTATE**  
Health Sciences University

Office of Graduate Medical Education

University Hospital of Brooklyn  
College of Medicine  
School of Graduate Studies  
College of Nursing  
School of Health Related Professions  
School of Public Health

**SUBJECT: GME GRIEVANCE PROCEDURES AND DUE PROCESS POLICY**

Originating Department: Graduate Medical Education  
Date Approved by GMEC: 12/11/2019  
Original Date: 4/11/2001  
Revisions: 6/16/2010, 2/14/2017, 12/11/2019

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*In accordance with section IV.D. of the ACGME Institutional Requirements, the Sponsoring Institution must have a policy that outlines the procedures for submitting and processing resident/fellow grievances at the program and institutional level and that minimizes conflicts of interest.*

**Purpose:**

To establish a policy and procedures for all graduate medical education programs sponsored by SUNY Downstate Medical Center ("**SUNY Downstate**") to use for submission and processing of resident and fellow grievances relating to the SUNY Downstate sponsored graduate medical education program (each, a "**GME Program**") or the institution. This Policy provides fair, reasonable and readily available policies and procedures for when a resident/fellow has a grievance regarding either SUNY Downstate or the GME Program.

**Scope:**

This Policy applies to all of the GME Programs and residents and fellows participating in such GME Programs. This Policy describes the processes for bringing and adjudicating resident/fellow grievances.

**Definitions:**

**Ad Hoc Review and Appeal Subcommittee:** refers to an ad hoc Review and Appeal Subcommittee of the GME Committee appointed by the GME Committee to hear and adjudicate resident/fellow grievances.

**Adverse Action:** disciplinary actions taken against a resident which alter the intended career development or timeframe. Such actions are reportable and allow a request for review and due process. Adverse actions include the following:

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**Dismissal:** act of terminating a resident/fellow participating in a GME Program prior to successful completion of the course of training whether by early termination of a contract or by non-renewal of a contract.

**Non-renewal:** act of not reappointing a resident/fellow to subsequent years of training prior to fulfillment of a complete course of training.

**Non-promotion:** act of not advancing a resident/fellow to the next level of training according to the usual progression through a GME Program.

**Extension of Training:** act of extending the duration of time required by a resident/fellow to complete a course of training generally resulting from repeating unsatisfactory rotation assignments or remediating poor performance or needing additional time to demonstrate achievement of required competence in one or more domains.

**Probation:** placement of a resident or fellow under close monitoring for specific performance concerns which if not successfully resolved may result in other Adverse Actions including dismissal. This action is reportable to state licensing authorities and health care institutions.

**Suspension:** withdrawal of privileges for participating in clinical, didactic or research activities associated with appointment to the GME Program or hospital staff. This action is taken if, in the judgment of the Program Director, Department Chairperson or institutional leadership (Associate Dean, Dean, Medical Director) a resident's or fellow's competence or behavior is such that patients may be endangered, the educational process disrupted or other peers, staff, faculty are subjected to an adverse and unacceptable work environment. Under such circumstances, suspension may be implemented immediately pending further investigation and determination of other appropriate action. Suspension may be with salary or salary may be withheld after consultation with the labor relations department of the employing facility.

**Clinical Competency Committee:** A Clinical Competency Committee appointed by the Program Director for a GME Program as described in more detail in the GME Academic Performance Due Process Policy.

**Due Process:** an individual's right to be adequately notified of any changes or proceedings involving him or her, and the opportunity to be meaningfully heard with respect to those proceedings.

**GME Program:** refers to a structured educational experience in graduate medical education designed to conform to the GME Program requirements of a particular specialty/subspecialty.

**Monitored Performance:** an academic function involving the heightened level of monitoring and assessment of resident/fellow performance in the course of training program activities usually used to further assess for improvement in noted areas of deficiency, often as a part of a program for remediation. This is not an Adverse Action and it is not reportable.

**Structured Feedback:** routine feedback regarding a trainee's performance or behavior and consistent with the educational program. Structured feedback can consist of verbal feedback, rotational and summative evaluations, spontaneous or "on-the-fly" formal evaluations, memos or letters to a resident's or fellow's record or to the Program Director and shared with the resident or fellow, discussion and recommendations of a Program's Clinical Competence Committee or Resident/Fellow Performance or other similar committee.

**Policy:**

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**General:** The SUNY Downstate GME Committee (“**GME Committee**” or “**GMEC**”) monitors, oversees and facilitates individual GME Program compliance with ACGME Institutional Requirements, ACGME Common Program Requirements and individual Review Committee (“**RC**”) specialty program requirements for due process in regard to the following matters:

- (1) Review and Evaluation of Resident Performance: academic or other disciplinary actions taken against residents or fellows that could result in dismissal, non-renewal of a resident’s or fellow’s agreement or other actions that could significantly threaten a resident’s intended career development;
- (2) Adjudication of Resident Complaints and Grievances related to the work environment or issues related to the GME Program or the faculty; and
- (3) Review and Evaluation of Resident Performance: Adverse actions and decisions in all GME Programs are based on department specific educational requirements and expectations for resident/fellow performance. Departmental guidelines and procedures for resident/fellow review and evaluation must be explicit and in written form and consistent with individual RC specialty program requirements. These guidelines and procedures must meet the SUNY Downstate standards set below. An evaluation of GME Programs due process procedures is a part of the GME Committee internal review protocol and subject to audit by the GME Office.

**Resident/Fellow Academic Performance:** The following processes are followed in connection with addressing a resident's or fellow's deficient performance within a GME Program:

Letter of Deficiency: When a resident or fellow has been identified as having deficiency, it is expected that he/she will receive routine Structured Feedback in order to identify and correct the deficiency. When the Program Director and/or the Clinical Competency Committee deems that routine feedback is not affecting necessary improvements, or if the Program Director and/or the Clinical Competency Committee determines that the deficiency is significant enough to warrant more than routine feedback, the Program Director and/or the Clinical Competency Committee may elect to issue a “Letter of Deficiency.” This letter formally provides the resident/fellow with (a) notice of the deficiency and (b) an opportunity to cure the deficiency. “Letters of Deficiency” must be signed and dated by the Program Director and copied to the resident/fellow’s record and to the GME Office. The “Letter of Deficiency” must indicate the possible outcomes of failure to fully resolve the concerns or developing deficiencies or performance problems in additional areas. The issuance of a “Letter of Deficiency” does not trigger a report to any outside agencies. The resident/fellow should continue to receive Structured Feedback addressing issues consistent with the “Letter of Deficiency.” The resident/fellow may be subjected to a period of Monitored Performance to appropriately assess progress in resolving deficiencies. If the resident/fellow satisfactorily resolves deficiencies noted in the “Letter of Deficiency,” and continues to perform acceptably thereafter, the period of unacceptable academic performance does not affect the resident/fellow’s intended career development.

Escalation: If the Program Director and/or the Clinical Competency Committee determine that the resident/fellow has failed to satisfactorily cure the deficiency and/or improve his/her performance to an expected and acceptable level, with consideration for what is fair and reasonable, the Program Director and/or the Clinical Competency Committee may elect to take further actions. Such actions may include but are not limited to any one or more of the following:

- a) Issuance of another, new “Letter of Deficiency.” (Non-reportable, not an Adverse Action);
- b) Placement on probation with establishment of adverse consequences for unsuccessfully meeting conditions of the probation;
- c) Non-promotion to the next PGY or training level and continue in the GME Program;
- d) Require repeat of training experience that in turn results in extension of required period of training;

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- c) Extension of contract which may involve extension of the defined training period (extension of training);
- f) Denial of credit for previously completed rotations/experiences;
- g) Non-renewal in the GME Program;
- h) Suspension from training pending further review or determination of other definitive action; or
- i) Dismissal from the residency or fellowship program.

For all such actions, the resident/fellow must be notified verbally, when possible, and in writing. A copy of the notification signed and dated by the Program Director with documentation that it was received by the resident/fellow (resident/fellow signed acknowledgement or witnessed or other receipt verification) must be included in the resident/fellow's record and copied to the GME Office. Notice of Adverse Action or any action which can interfere with the resident/fellow's intended career development must be in writing and inform the resident/fellow of his/her right to review and appeal of such Adverse Action, along with a copy of this Policy. Notifications of Adverse Action should be done in consultation with the GME Office.

**Reportable Actions:** The decision not to promote a resident/fellow to the next PGY level, to extend training, to deny credit for a period of training, suspension, probation, and/or terminating a resident/fellow's participation in a GME Program are each considered reportable actions (each a "**Reportable Action**"). Such Reportable Actions must be disclosed to others upon request, including without limitation, future employers, privileging hospitals, and licensing and specialty boards. resident/fellows who are subject to a Reportable Action are permitted to request a review of the decision and seek to appeal that decision. Note that routine academic performance evaluations and assessments even when unsatisfactory are standard procedures in a training program and in and of themselves are not considered Adverse Actions, are not Reportable Actions and are not subject to appeal under this Policy.

**Request for Review and Appeal:** A review and appeal of a GME Program's decision to take a reportable Adverse Action or any action interfering with the resident/fellow's intended career development may be requested by the resident/fellow. The request must be made in writing, addressed to the Associate Dean for GME, signed and dated, and submitted to the Director of Graduate Medical Education within 14 calendar days of the resident/fellow learning of the Reportable Action. The request should clearly describe the reason for requesting the review and any basis upon which an appeal is being made.

Upon receipt of a Request for Review and Appeal, the Associate Dean for GME will determine whether the matter is subject to review under this Policy. If so, the Associate Dean for GME will direct the Director of GME to appoint an Ad Hoc Review and Appeal Subcommittee. The Ad Hoc Review and Appeal Subcommittee will be composed of neutral reviewers from Departments other than the one in which the requesting resident/fellow is appointed. The Ad Hoc Review and Appeal Subcommittee will consist of at least two SUNY Downstate faculty members and one resident or fellow. Additional committee members may be assigned at the discretion of the Associate Dean for GME/DIO. The Ad Hoc Review and Appeal Subcommittee may also include institutional GME Department leadership such as the Vice Dean for GME, Associate Dean for GME, the DIO or GME Office administrative officers. SUNY Downstate legal counsel may serve in an advisory capacity.

The Ad Hoc Review and Appeal Subcommittee will perform the following functions:

- a) Conduct confidential meeting(s) open only to Ad Hoc Review and Appeal Subcommittee members, GME Office and GMEC staff, and any participants invited by and approved by the Ad Hoc Review and Appeal Subcommittee.
- b) Identify one faculty member who will serve as Chairperson of the Ad Hoc Review and Appeal Subcommittee. The Ad Hoc Review and Appeal Subcommittee Chairperson

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- should be a participant on the SUNY Downstate GME Committee.
- c) Arrange for an individual to take notes and document a summary of minutes of meetings held.
  - d) Ad Hoc Review and Appeal Subcommittee meetings will be scheduled at the discretion of the committee Chairperson.
  - e) Establish a process for the review. Such process will not be rigidly prescribed and is not conducted in the manner of a legal hearing process. No legal representation will be permitted. No opportunity for cross examination or questioning is offered.
  - f) Review the resident/fellow complaint and request for review/appeal.
  - g) Provide the resident/fellow requesting the review or appeal the opportunity to appear before the Ad Hoc Review and Appeal Subcommittee to make a statement and/or present evidence of relevance for rescinding the action under review. The Ad Hoc Review and Appeal Subcommittee may also require the resident/fellow to respond to questions posed by the Ad Hoc Review and Appeal Subcommittee. As an academic review panel and not a legal hearing, when appearing before the Ad Hoc Review and Appeal Subcommittee, the resident/fellow may be accompanied by an advocate who is not an attorney. Failure of an appealing resident/fellow to appear as scheduled before the Ad Hoc Review and Appeal Subcommittee without just cause could result in a summary determination against the resident/fellow.
  - h) If applicable, review relevant records and documentation such as the resident/fellow's file, program records, policies, meeting minutes, etc.
  - i) Consider any extenuating circumstances.
  - j) The Ad Hoc Review and Appeal Subcommittee may meet with the Program Director or other program representative(s) and request presentation of evidence for upholding the proposed action.
  - k) The Ad Hoc Review and Appeal Subcommittee may request statements from or interview other resident/fellows, faculty, staff, administrators or members of the academic or health care team in order to gather additional information.
  - l) The Ad Hoc Review and Appeal Subcommittee may consult with others, as appropriate, to assist in the decision making process.
  - m) Determine whether this Policy was followed, the resident/fellow received notice and an opportunity to cure, and the decision to take the Reportable Action was reasonably made.
  - n) The Ad Hoc Review and Appeal Subcommittee Chairperson is responsible for preparing the committee's report summarizing findings and making recommendations to the Associate Dean for GME/DIO regarding the review and request for appeal of Reportable Actions.
  - o) The Ad Hoc Review and Appeal Subcommittee Chairperson or designee will report the outcome of the review and appeal process to the GME Committee.

Upon receipt of the Chairperson's report from the Ad Hoc Review and Appeal Subcommittee, the Associate Dean for GME shall review said findings and recommendations. The Associate Dean for GME/DIO finding the committee's review process to have followed procedure and be fair, reasonable and appropriate shall make notification to the resident/fellow of the Ad Hoc Review and Appeal Subcommittee's decision in writing with a copy to the Program Director, Department Chairperson, the employing institution, if applicable, and others as appropriate.

The decision resulting from this review is a final and binding decision. It is not subject to further formal

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review within the State University of New York Downstate Medical Center (Health Science Center at Brooklyn).

**Resident/Fellow Complaints and Grievances Related to Work Environment or Issues Related to the GME Program or Faculty:**

Residents/fellows are expected to address complaints and grievances to their Program Director. If this fails to resolve the issue, or if the resident/fellow does not wish to discuss the matter within the GME Program, the resident/fellow may speak directly and confidentially to the Associate Dean/DIO who serves as Ombudsman for GME. Residents/fellows are assured that nothing can be communicated about what they say to the Ombudsman without their expressed permission. Referrals as well as problem solving interventions are provided in strict confidence.

Formal charges of discrimination based on race, sex, age, religion, national or ethnic origin, disability, marital status, sexual orientation, or veteran status, should be filed with the campus Office of Diversity and Inclusion.

After consultation with the Associate Dean/DIO and Ombudsman for GME, residents/fellows may formally seek adjudication through the GME Committee. Within 10 working days of receipt of the request for adjudication, the GMEC Chair will appoint an Ad Hoc Review and Appeal Subcommittee to consider the grievance or complaint for appropriate action. See above for procedures and process.

The hearing shall be confidential and open only to the Ad Hoc Review and Appeal Subcommittee members, the resident, and any invited adviser(s). If the defendant(s) or resident/fellow would desire individuals with factual information regarding the grievance to appear before the Ad Hoc Review and Appeal Subcommittee, the interested party may make the appropriate arrangements. The hearing may only be rescheduled under extraordinary circumstances at the discretion of the chair of the Ad Hoc Review and Appeal Subcommittee. At the discretion of the chair, the defendant(s) and resident/fellow may question their own witnesses. If the Ad Hoc Review and Appeal Subcommittee decides that additional information is required, the chair may request written materials and additional meetings, which may occur beyond the 30-day time period referenced above.

The Ad Hoc Review and Appeal Subcommittee's adjudication is final and is not subject to further formal review within the State University of New York Downstate Medical Center (Health Science Center at Brooklyn).

**No Retaliation:** Under no circumstances may anyone retaliate against, interfere with or discourage anyone from participating in the grievance procedures under this Policy. A resident/fellow who believes he/she may have been retaliated against in violation of this Policy should immediately report it to his/her supervisor, the Director of GME, resident ombudsman, Associate Dean for GME, DIO or other any other supervisor.

Approved by the GMEC and DIO, Effective 12/11/ 2019

  
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Chairman of the GMEC

  
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DIO

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***This Policy supersedes all prior, similar and/or related versions and revisions.***