

<b>UNIVERSITY OF MARYLAND MEDICAL CENTER GRADUATE MEDICAL EDUCATION POLICY AND PROCEDURE MANUAL</b>	<b>PAGE:</b>  1 of 5	<b>PROCEDURE NO:</b>  <b>GMS- C</b>
	<b>EFFECTIVE DATE:</b> 7/1/07	<b>REVISION NO:</b>
<b>SUBJECT:</b> <b>Due Process Hearing Procedure (Grievance Procedure)</b>	<b>FUNCTION:</b>	
<b>APPROVALS:</b> Graduate Medical Education Committee: 4/26/07  Final – President and Chief Executive Officer Designated Institutional Official		

## 1. Purpose

As the sponsoring institution, the University of Maryland Medical Center's (UMMC) residency training programs are an educational environment in which residents and fellows may raise and resolve issues without fear of intimidation or retaliation which includes:

- Establishment of a fair and reasonable, and readily available policies and procedures for adjudication of resident's and fellow's complaints and grievances related to the work environment or issues related to the program or faculty
- Implementation of fair and reasonable policies and procedures for academic or disciplinary action related to a resident or fellow taken against residents that could result in dismissal, non-renewal of a resident's agreement, non-promotion of a resident to the next level of training, or other actions that could significantly threaten a resident's intended career development
- A fair and reasonable process for residents to address concerns in a confidential and protected manner
- A resident forum to address issues and exchange information relating to working environment, t and their educational program, and other residents

Residents and fellows are encouraged to attempt first to resolve any concerns informally by meeting with the appropriate program director, division head, or department chairman.

A resident or fellow who believes he or she has been harassed or discriminated against on the basis of his/her race, color, creed, religion, sex, national origin, disability, age, handicap or veteran status is to contact the Department of Human Resources.

## 2. Scope

This policy applies to all residents and fellows enrolled in UMMC sponsored programs.

## 3. Responsibility

It is the responsibility of all residents, fellows, program directors, employees, faculty, and UMMC management and staff to comply with this policy.

## 4. Policy

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4.1. The program director and faculty are responsible for providing residents and/or fellows enrolled in the UMMC sponsored program with routine feedback through a comprehensive assessment system, that complies with the ACGME Institutional and Program Requirements. The assessment system includes, but is not limited to, verbal, written, formal, and/or informal feedback based on multiple assessment methodologies (e.g., rotation evaluations, in-service exam scores) and multiple raters (e.g., faculty, ancillary staff, peers, patients).

4.2. The program director is required to consult with the UMMC GME director or his/her designee when routine feedback is not effecting necessary improvement in a resident's or fellow's performance or behavior. Working closely with the UMMC GME office, the program director may issue "Letter of Deficiency" to the resident.

At a minimum, a Letter of Deficiency must include:

- The specific performance concerns that have been identified;
- The expected level of performance/behavior required to address the deficiency;
- A Remediation Plan consistent with the program's specific policy on Selection, Evaluation, Promotion & Dismissal Policy, including time frames for completion of specific actions;
- Any future actions that may be taken if remediation is unsuccessful (e.g., elect not to promote; deny credit for training; non-renewal of contract; extension of training; termination); and
- The signature of the program director and the co-signature of the UMMC GME director or designee.

4.3. If the resident or fellow satisfactorily addresses the deficiencies in performance/behavior and continues to maintain satisfactory performance/behavior at expected levels, no further action is required outside of the assessment system established by the program.

If the resident or fellow does not satisfactorily address the deficiencies in performance/behavior, the program director contacts the UMMC GME director or designee. The UMMC GME director or designee, working closely with the program director will draft a communication to the resident or fellow that details the next action (e.g., elect not to promote; deny credit for training; non-renewal of contract; extension of training; termination). The resident or fellow will be offered the opportunity to request a grievance hearing. The letter will be co-signed by the program director and the UMMC GME director or designee. The communication will inform the resident or fellow that he/she is eligible to request a grievance hearing under the Due Process Hearing procedure based on this subsequent action and communication

#### 4.4. Request for Hearing

As provided in the UMMC Resident/Fellow Agreement, a resident or fellow in an UMMC sponsored program may request a grievance hearing to appeal any action by UMMC which could result in dismissal from the program, non-renewal of a Resident/Fellow Agreement, non-promotion of a resident to the next level of training; or other action which

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could significantly threaten the resident's or fellow's intended career development (e.g., extension of program, denial of credit for training/experience, denial of promotion, termination). The Due Process Hearing Procedure is also available to the Resident/Fellow for the adjudication of Resident/Fellow complaints and grievances related to work environment or issues related to the Program or faculty. Hearings under this procedure are not available with respect to actions of the Medical Staff on matters that are the responsibility of the Medical Staff under its By-laws.

4. 4. 1. If the resident or fellow elects to request a grievance hearing, the resident or fellow must submit a formal written request for a grievance hearing to UMMC's Chief Medical Officer within 14 calendar days after the resident or fellow receives notice of the action that has been or will be taken. The formal request must be written, signed and dated and includes a complete factual description of the complaint or the action leading to the grievance and any other information that may be relevant or helpful.

#### 4.5 Selection of Hearing Panel

Within 14 calendar days after UMMC's Chief Medical Officer receives the request for a grievance hearing, the Chief Medical Officer will designate the specialty or subspecialty preferences for the grievance panel members. The grievance will be heard by a three member panel. Where possible and practical, the three person panel shall consist of two members of the faculty and one resident or fellow from the grieving resident's or fellow's department. No member of the panel shall have participated in the decision or action that the resident or fellow is grieving. In addition, if the resident or fellow makes a request, no member of the panel shall have previously been substantially involved in any other decision or action directly involving the resident or fellow. If potential conflicts require that one or more panel members come from other departments, the Chief Medical Officer will make every effort to select specialty or subspecialties that are closely related to the grieving resident's or fellow's program. . The Chief Medical Officer shall designate one of the faculty members as the chairman of the three member grievance panel.

#### 4.6 Scheduling of Hearing

The UMMC GME Director or designee shall schedule the grievance hearing within 30 calendar days after the Chief Medical Officer's receipt of the formal request for the grievance hearing.

#### 4.7 Letter of Deficiency

The resident or fellow who is grieving the action that has been or will be taken by the program director must receive a copy of the Letter of Deficiency that details the reasons for the subsequent action at least 10 calendar days before the scheduled grievance hearing date.

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#### 4.8 Grievance Hearing

- The grievance hearing will be conducted in accordance with the rules of law relating to the examination of witnesses or presentation of evidence. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs shall be considered when presented at the time of the grievance hearing
- The resident or fellow will be given the opportunity to refute the findings or rebut the explanation relating to the action and may do so by presenting his/her own statements, testimony of witnesses and presentation of evidence through documentation
- UMMC program representatives and their designees will present statements, testimony of witnesses and presentation of evidence through documentation that supports the action taken..
- Legal counsel for the resident or fellow may be present, but may not participate in the grievance hearing. The hearing will be closed, and its proceedings are confidential. The grievance hearing may be taped by UMMC.
- Legal counsel for UMMC will be present, but may not participate in the grievance hearing.
- Copies of all documentary evidence shall be preserved.
- If the resident or fellow fails to appear for his/her grievance hearing without good cause, the resident or fellow will be deemed to have waived his/her request for a hearing.

#### 4.9 Three Member Panel Recommendation

Following the grievance hearing, the participants will be excused and the three member panel will review the information presented at the grievance hearing and make a recommendation to the Chief Medical Officer. Legal counsel will document the recommendation of the three member panel based on a majority vote. The recommendation will be forwarded to the Chief Medical Officer within 14 calendar days after the termination of the grievance hearing. The recommendation based on the evidence, testimony and other documentation that is presented at the grievance hearing.

#### 4.10 Chief Medical Officer Final and Binding Decision

After review of the three member panel's recommendation and supporting information presented at the time of the grievance hearing, the Chief Medical Officer will render a final and binding decision no later than 21 calendar days following the conclusion of the grievance hearing. The Chief Medical Officer will provide the resident or fellow with a copy the three member panel's recommendation and the Chief Medical Officer's final and binding decision..

#### 4.11 Maintenance of Record of the Grievance Hearing

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The UMMC Graduate Medical Education Department shall maintain the documentation from the grievance hearing for at least four years from the date of the grievance hearing. The resident or fellow may obtain a copy of the record upon paying the cost of reproduction.

#### 4.9 Delegation

The Chief Medical Officer may delegate responsibilities under this policy to members of UMMC management or its Medical Staff. As long as the parties are acting in good faith, if they are unable to observe the time limits set forth in Sections 4.8 – 4.10 of this policy, the times shall be extended without prejudicing or increasing the rights of any party.