



## GME GRIEVANCE AND DUE PROCESS

Policy Title: GME Grievance and Due Process

Policy Number:

Applies to: ESFCOM Sponsored Residency and Fellowship Programs, faculty, staff

Date: 04/25/18

### 1.0 Policy Statement:

It is the Elson S. Floyd College of Medicine (ESFCOM) policy to establish, maintain, and continually evaluate effectiveness of a process which supports residents and fellows at ESFCOM, in order to raise concerns, complaints and grievances in a confidential manner and in an environment which fosters open, respectful communication without fear of intimidation or retaliation.

### 2.0 Definitions

**Accreditation Council for Graduate Medical Education (ACGME):** The ACGME is responsible for the accreditation of post-MD medical training programs within the United States.

**Designated Institutional Official (DIO):** The individual in a sponsoring institution who has the authority and responsibility for oversight and responsibility of all of the ACGME-accredited programs.

**Due Process:** A mechanism by which Institutional and Program Policies are outlined for the adjudication of Resident complaints and grievances; a process by which an individual who is aggrieved has an opportunity to have another inquiry/re-evaluation to assure that a corrective action was fair and reasonable.

**Graduate Medical Education Committee (GMEC):** Graduate Medical Education Committee at ESFCOM.

**Trainee:** a physician in training at an ACGME accredited graduate medical education program, the term includes Interns, Residents, and Fellows or other trainee enrolled in an educational program whose education falls under the purview of the ESFCOM Office of Graduate Medical Education.

**Program:** The unit of specialty education, comprising a series of graduated learning experiences in graduate medical education, designed to conform to the ACGME Program Requirements of a particular specialty.

**Program Director:** The designated person accountable for the Program; this person must be selected by the Designated Institutional Official and possess qualifications acceptable to the appropriate Residency Review Committee (RRC) of the ACGME.

**Sponsoring Institution:** The organization (or entity) that assumes the ultimate financial and academic responsibility for a program of GME. The sponsoring institution has the primary purpose of providing educational programs and/or health care services (e.g., a university, a

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medical school, a hospital, a school of public health, a health department, a public health agency, an organized health care delivery system, a medical examiner's office, a consortium, an educational foundation).

**Trainee:** This term applies to any student, intern, resident, fellow, or other trainees enrolled in an educational program whose education falls under the purview of the ESFCOM Office of Graduate Medical Education.

## 3.0 Responsibilities

GMEC through the DIO; Associate Dean for GME; Assistant Regional DIOs

## 4.0 Procedures

The procedures set for below are designed to provide both Trainees and ESFCOM as the Sponsoring Institution with an orderly means of resolving differences which may arise between them that are not addressed by informal means. Professionalism and development as an independent practitioner depends on the Trainee's ability to communicate and resolve conflict. The interests of the Trainee and ESFCOM are best served when concerns, complaints and grievances are initially raised and resolved as part of regular communication between the Trainee and his/her Program Director. If the concern or complaint involves the conduct of the Program Director, then the Trainee is asked to discuss the matter with the applicable clinical structure within the affiliate institution (Division Chief or Department Chair), or directly with the Designated Institutional Official, Assistant Designated Institutional Official, or Director of Graduate Medical Education (GME).

- A. Communication with GME: If the complaint, concern or grievance cannot be resolved within the Program using informal discussions with the involved parties, assistance may be sought from the DIO, Director of GME and/or the Chair or vice-Chair of the GMEC.
- B. Trainee Problem Behavior: It is understood that Trainees may exhibit behaviors, attitudes or characteristics which may be of concern and require remediation. It is a professional judgment as to when a Trainee's behavior becomes problematic. However, problems generally exist when one or more of the following is noted:
  1. Trainee does not acknowledge, understand or address the problem when it is identified;
  2. The problem is not merely a reflection of a skill deficit which can be remedied by academic or didactic training;
  3. The quality of the services delivered by the Trainee is sufficiently negatively affected;
  4. The problem is not restricted to one area of professional functioning;
  5. A disproportionate amount of attention by training faculty is required;
  6. Trainee's behavior does not change as a function of feedback, remediation efforts or time;
  7. The problem behavior has potential for ethical or legal ramifications if not addressed;
  8. The problem behavior negatively impacts others, including those on the Trainee staff.

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- C. Notification to the Trainee of Problem Behavior and Remediation Alternatives. Once a behavior has been identified as problematic, there are several alternatives available to notify and meaningfully address the behavior of the Trainee:
1. Verbal Warning: Trainee is given a verbal warning to discontinue the inappropriate behavior.
  2. Written Acknowledgment: A writing to formally advise the Trainee that the Program Director is concerned with a particular behavior/performance, that the Program Director and supervising faculty is committed to work with the Trainee to solve the problem or remedy skill deficits, and that the behavior is not significant enough at this time to warrant a formal warning. When the Trainee responds to the concern(s) and successfully completes the Program, the written acknowledgment is to be removed from the Trainee's file.
  3. Written Warning: A written warning notifies the Trainee that he/she must discontinue an inappropriate behavior and includes these elements:
    - a. A description of the unsatisfactory behavior;
    - b. The actions needed to correct the unsatisfactory behavior;
    - c. A timeline for correction; and
    - d. What action will be taken if the behavior is not corrected (Schedule Modification, Probation, Suspension, Leave, Dismissal).

A copy of the written warning will be sent to the DIO and kept in the Trainee's file; the Trainee will be given an opportunity to submit his/her position in writing for the file.
  4. Schedule Modification: A schedule modification is a time-limited, remediation-oriented, closely supervised period of training designed to return the Trainee to a more fully-functioning state. This often occurs when the Program director decides that an accommodation needs to be made to assist the Trainee during a time of stress, with the full expectation that the Trainee will complete the Program. The Program Director will decide the length of the schedule modification in consultation with the Trainee's supervising faculty and the Director of GME. Several possible courses of action may be taken, including one of more of the following:
    - a. Referral of the Trainee for Well-Being assessment;
    - b. Increasing the amount of supervision with the same supervising faculty or other faculty;
    - c. Changing the format, emphasis or focus of the supervision;
    - d. Reducing the Trainee's clinical or other workload;
    - e. Requiring completion of specific academic coursework.
  5. Probation Period: Probation is a time-limited, remediation-oriented, more closely supervised training period in which the Trainee's ability to complete the Program is assessed. The Program Director will systematically document and monitor, for a specified length of time, the degree to which the Trainee addresses, changes, or otherwise improves a problematic behavior. The Trainee

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will receive a written probation letter which will include:

- a. Specific behavior(s) associated with an unacceptable rating;
  - b. Recommendations for remedying the problem;
  - c. A time frame for correction;
  - d. Any schedule modification(s); and
  - e. The process to assess whether the problem has been appropriately remedied. A copy of this letter will also be sent to the DIO. If there is a lack of sufficient improvement within the noted time frame to remove probation, the Program Director will discuss the situation with supervising faculty and the DIO and consider possible courses of action. The Program Director will then communicate with the Trainee in writing to inform him/her that: (i) the conditions for revoking the modified schedule or probation have not been met; (ii) the next course(s) of action to be implemented, such as continuation of remediation or implementation of another alternative; and (iii) the Trainee's academic program director will be notified that if the behavior does not change, the Trainee will not successfully complete the Program.
6. Suspension of Direct Service Activities: Where a determination is made by the Program Director, in consultation with the Trainee's supervising faculty and DIO, that the welfare of the Trainee's patient(s) has been jeopardized, direct service activities will be suspended for a specified period of time. The Program Director and the Trainee's supervising faculty will determine the length of the suspension by assessing when the Trainee has the capacity to return to effective functioning (see section D for Process).
  7. Administrative Leave: The imposition of an administrative leave involves the temporary withdrawal of all responsibilities and permitted activities at ESFCOM and affiliated programs/sites. The Program Director will inform the Trainee of the impact on the Trainee's stipend and benefits. If a Probation Period, Suspension of Direct Services, or Administrative Leave interferes with the number of training hours needed for successful completion of the Program, this will be noted in the Trainee's file and the DIO will be informed.
  8. Dismissal from the Training Program: Dismissal involves the permanent withdrawal of all responsibilities and permitted activities at ESFCOM and affiliated programs/sites. After a reasonable period of time, if specific interventions do not remedy the problem behavior or concerns, and the Trainee seems unable or unwilling to alter his/her behavior, the Program Director will discuss with the DIO the possibility of termination from the Program and dismissal from the ESFCOM residency or fellowship program. Grounds for dismissal from the Program may include:
    - a. Severe violations of the American Medical Association (AMA) Code of Ethics, or when imminent physical or psychological harm to a patient is a major factor;
    - b. Trainee's inability to complete the Program due to physical, mental or emotional illness; or
    - c. Trainee inability to remediate skill deficits that are necessary for completion

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of the Program.

The DIO and the Trainee will be notified in writing that the Trainee has been dismissed, without completion of the Program.

- D. Trainee Grievance Process: Trainee Staff are afforded due process and an opportunity to be heard as described herein with respect to complaints and grievances which cannot be informally resolved:
- 1. Level 1**
    - a. Trainees who feel that they have been improperly subjected to an adverse action and who have been unable to resolve the problem through informal discussion shall submit the matter in writing to the appropriate Department Chair or Division Chief for consideration within fifteen (15) days of the occurrence of the action identifying the matter as a formal dispute. The Department Chair or Division Chief will respond in writing to the claim by the Trainee within fifteen (15) days.
  - 2. Level 2**
    - a. If the dispute is not resolved by these discussions, a Trainee who wishes to continue the matter shall file a written statement of dispute with the ESFCOM GME Office within fifteen (15) days of receiving the response from the Department Chair or Division Chief. The statement must describe the matter in dispute, previous attempts at resolution, documentation from the Level 1 decision, and the action that the Trainee requests be taken. The statement must specify a particular adverse action or inaction and how that adverse action or inaction directly and adversely affects the individual Trainee.
    - b. The DIO or designee shall discuss the dispute with the Trainee and the appropriate individual or individuals in the department or division in an effort to resolve the matter. If the matter is not resolved within fifteen (15) days, the DIO will notify the Trainee in writing that the matter has not been resolved and inform the Trainee of his or her right to request a Grievance Review. If the DIO or designee determines that time beyond fifteen (15) days may be required to resolve this grievance, the Trainee shall be notified accordingly. In no event will there be an extension of time beyond thirty (30) additional days after receipt of the written statement of dispute from the Trainee.
  - 3. Level 3**
    - a. A Trainee can request a formal Grievance Review of an action by ESFCOM or the training program which could result in dismissal from the program, non-renewal of a Physician-in-Training Agreement, non-advancement of the Trainee to the next level of training; or other action which could significantly threaten the Trainee's intended career development when such action is based on Trainee performance or

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- compliance with his/her training. Non-reappointment based on Institutional factors is not reviewable under Level 3.
- b. To initiate a request for a formal Grievance Review, the Trainee must inform the DIO in writing within fifteen days (15) after issuance of the Level 2 notice, of his or her decision to move forward with a formal Grievance Review. Upon receipt of the Trainee's request for a formal Grievance Review, the DIO will appoint a five (5) person Trainee Staff Review Panel. The panel will consist of the DIO who will chair the panel, CMO or designee, one member of the medical staff appointed by the Resident/Fellow Forum, one member of the Trainee Staff appointed by the Resident/Fellow Forum, and two (2) members of the GMEC appointed by the GMEC. The Director of GME and/or the GME Institutional Coordinator will be non-partisan members of this panel in order to document this process. A date for this Grievance Review will be set by the Chair of the panel within forty-five (45) days of the receipt of the Trainee's request. At least ten (10) days prior to the Grievance Review, the Trainee will be provided with a written explanation supporting the department or division's decision to terminate or not advance the Trainee.
  - c. The Trainee will have an opportunity at the review to refute the explanation and to present information and documentation in support of the Trainee's position. The affected department or division will appoint a representative to present its information in support of its decision. At the discretion of the panel chair, others may attend the Grievance Review.
  - d. The Panel will evaluate the evidence presented by both sides. The decision of the department or division will be upheld unless the Panel finds upon review of the evidence presented that the action of the department or division was clearly unreasonable.
  - e. The Trainee Staff Review Panel will render a written decision within thirty (30) days of the conclusion of the review. The written decision will be forwarded to the affected Trainee, the Program Director, DIO, and the appropriate Department Chair and/or Division Chief. Such decision of the Panel will be final, forwarded to the GME Office, and placed in the Trainee's file.

## 5.0 Related Policies

GME Special Review; GME Renewal and Promotion

## 6.0 Key Search Words

Grievance; Dismissal; Special Review; Clinical Learning Environment
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## 7.0 Revision History

Original Approval	Policy number	Revision Date Approval
April 25, 2018		

**Responsible Office:** Designated Institutional Official; GME Office

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**Policy Contact:** GME Office, GME Director, Institutional Coordinator

**Supersedes:** N/A