



## **CORRECTIVE AND DISCIPLINARY ACTION**

Policy Title: WSU College of Medicine GME Corrective and Disciplinary Action Policy

Applies to: WSU Elson S. Floyd College of Medicine Graduate Medical Education (GME) Sponsoring Institution and all accredited post-graduate medical training programs (i.e. residency or fellowship) and non-accredited clinical fellowship programs sponsored by the College of Medicine.

Date: January 17, 2023

### **1.0 Policy Statement:**

It is the WSU College of Medicine GME policy to establish, maintain, and continually evaluate the effectiveness of a fair and reasonable process for residents and fellows at the COM, in order to address concerns in a private manner and in an environment that 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.

**Appointing Authority:** The individual appointed by the WSU President for actions involving faculty, administrative professional, and classified employees in each division for purposes of employment, appointment, discipline, or termination.

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

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

**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 individual designated with authority and accountability for the operation of a residency/fellowship program.

**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 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:** a physician designated as an Intern, Resident, Fellow or other trainee, who is enrolled at an ACGME-accredited graduate medical education program that falls under the purview of the COM Office of Graduate Medical Education.

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### **3.0 Responsibilities**

GMEC and DIO

### **4.0 Procedures**

The procedures set for below are designed to provide both Trainees and the Sponsoring Institution (i.e., COM) 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 depend on the Trainee's ability to communicate and resolve conflict. The interests of the Trainee and ESFCOM are best served when concerns (including trainee performance concerns) and complaints are initially raised and resolved as part of regular communication between the Trainee and the Trainee's 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 Designated Institutional Official, or Director of Graduate Medical Education (GME). If the concern involves discrimination and harassment, COM will follow reporting requirements outlined in Washington State University's Executive Policy 15 (EP15)

Communication with GME: If the complaint or concern cannot be resolved within the Program using informal discussions with the involved parties, assistance may be sought from the DIO or Director of GME.

#### Trainee Problem Behavior:

Trainees are expected to comply with established policies, rules and expectations. Corrective and or disciplinary action may be necessary when trainees fails to meet policies, rules and expectations, for reasons including, but not limited to, the following examples:

1. Trainee does not acknowledge, understand or address the concern when it is identified;
2. The concern is not merely a reflection of a skill deficit that can be remedied by academic or didactic training;
3. The quality of the services delivered by the Trainee is sufficiently negatively affected;
4. The Trainee performance concern is not restricted to one area of professional function;
5. A disproportionate amount of attention by training faculty is required to support the Trainee;
6. After receiving feedback and/or remediation efforts regarding a performance concern, Trainee's subsequent performance does not sufficiently resolve the concern;
7. The Trainee performance concern has potential for ethical or legal ramifications if not addressed;
8. The Trainee performance concern negatively impacts others in the Program.

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Notification to the Trainee of Behavior or Performance Concern and Remediation Alternatives. Once a performance concern has been identified, 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/performance.
2. Written Acknowledgment: A writing presented to Trainee to formally advise the Trainee that the Program Director is concerned with a particular behavior/performance, that the Program Director and supervising faculty are committed to work with the Trainee to remedy the concern, and that the concern is not significant enough to warrant a formal, written warning. When the Trainee has responded to the concern(s) and successfully completed the Program, the written acknowledgment will be removed from the Trainee's file.
3. Written Warning: A written warning notifies the Trainee and requires the Trainee discontinue an inappropriate behavior/performance and includes these elements:
  - A description of the unsatisfactory behavior/performance;
  - The actions needed to correct the unsatisfactory behavior/performance;
  - A timeline for correction; and
  - The action(s) that will be taken if the behavior is not corrected (Schedule Modification, Probation, Suspension, Leave, Dismissal).

The Program Director will notify the DIO and WSU HRS before issuance of a written warning to the Trainee. A copy of the written warning will be sent to the DIO and kept in the Trainee's departmental and personnel files; the Trainee will be given an opportunity to submit a written response to the written warning that will be kept in the Trainee's departmental and personnel file.

4. Schedule Modification: A schedule modification is a time-limited, remediation-oriented, closely supervised period of training designed to support the Trainee's future return to a standard Trainee schedule. This may occur when the Program director decides that a schedule adjustment needs to be made to assist the Trainee (e.g., during a time of increased Trainee stress) with the full expectation that the Trainee will complete the Program. Accommodations on the basis of a medical condition will follow the WSU Reasonable Accommodation policies and procedures (BPPM 60.21). The Program Director will decide the length of the schedule modification in consultation with the Trainee's supervising faculty and the Director of GME. The possible courses of action include, but are not limited to, one of more of the following:
  - Referral of the Trainee for well-being assessment;
  - Increasing the amount of supervision with the same supervising faculty or other faculty;
  - Changing the format, emphasis or focus of the supervision;
  - Reducing the Trainee's clinical or other workload;
  - Requiring completion of specific academic coursework.

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5. Probation Period: Upon Trainee notification of Trainee's performance/behavior concern and subsequent lack of remediation within the timeline for correction regarding the concern, the Program Director may place the Trainee in probation for a time-limited, remediation-oriented, more closely supervised training period in which the Trainee's ability to complete the Program is assessed. For a specified length of time, the Program Director will systematically document and monitor the degree to which the Trainee addresses, changes, or otherwise improves a problematic behavior. The Trainee will receive a written probation letter which will include:
  - Specific performance/behavior associated with an unacceptable rating;
  - Recommendations for remedying the problem;
  - A time frame for correction;
  - Any schedule modification(s); and
  - The process to assess whether the performance/behavior concern has been appropriately remedied. A copy of this letter will also be sent to the DIO. If there is insufficient 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, e.g., continuation of remediation or implementation of another alternative; and (iii) the Trainee's academic program director will be notified that if the performance expectations are not met, the Trainee will not successfully complete the Program.
6. Suspension of Direct Service Activities: Direct service activities will be suspended for a specified period of time 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. The Program Director and the Trainee's supervising faculty, in consultation with HRS and the Appointing Authority, 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. Leave Without Pay: 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 consult with HRS, the DIO, and the Appointing Authority prior to informing the Trainee of the impact on the Trainee's stipend and benefits. If a Probation Period, Suspension of Direct Services, or Leave Without Pay interferes with the number of training hours needed for successful completion of the Program, this will be noted in the Trainee's departmental and employee files 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 performance behavior/concern, and the Trainee seems unable or

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unwilling to alter his/her behavior, the Program Director will discuss with the DIO, the Appointing Authority, and HRS the possibility of termination from the Program and dismissal from the ESFCOM residency or fellowship program. Grounds for dismissal from the Program may include, but are not limited to:

- 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;
- Trainee's inability to complete the Program due to a medical condition; or
- Trainee inability to remediate skill deficits that are necessary for Program completion. The DIO and the Trainee will be notified in writing that the Trainee has been dismissed without completion of the Program.

Trainee Appeal Process: Trainees are afforded a fair and reasonable process to respond to notice of Trainee performance/behavior concerns that cannot be informally resolved:

### **Level 1**

- 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 DIO for consideration within fifteen (15) days of the occurrence of the action identifying the matter as a formal dispute. The DIO will respond in writing to the claim by the Trainee within fifteen (15) days.

### **Level 2**

- a. If the dispute is not resolved with Level 1 process, 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 DIO. 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 an Appeal Review. If the DIO or designee determines that time beyond fifteen (15) days may be required to resolve this appeal, 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.

### **Level 3**

- a. A Trainee can request a formal Appeal Review of an action by ESFCOM or its training program that could result in dismissal from the program, non-renewal of a Physician-in-Training Agreement, non- advancement of the

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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 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 Appeal Review, the Trainee must inform the DIO in writing within fifteen days (15) after issuance of the Level 2 notice, of the Trainee's decision to move forward with a formal Appeal Review. Upon receipt of the Trainee's request for a formal Appeal Review, the DIO will appoint a five (5) person Trainee Staff Review Panel that must include a peer selected resident and at least two members of the GMEC appointed by the GMEC. The Director of GME and/or the GME Institutional Manager will be non-partisan members of this panel in order to document this process. A date for this Appeal 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 Appeal 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 training program will appoint a representative to present its information in support of its decision. At the discretion of the panel chair, others may attend the Appeal 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 recommendation to the Appointing Authority within thirty (30) days of the conclusion of the review. The Appointing Authority will issue a written decision will be forwarded to the affected Trainee, the Program Director, and DIO. Such decision of the Appointing Authority will be final, forwarded to the GME Office, and placed in the Trainee's departmental and personnel files.

### 5.0 Related Policies

GME Special Review, GME Promotion and Appointment Renewal

### 6.0 Revision History

<b>GMEC Approval:</b>	November 16, 2021
<b>Revision/Review Date(s)</b>	January 17, 2023

**Responsible Office:** WSU College of Medicine Sponsoring Institution

**Policy Contact:** Designated Institutional Official

**Supersedes:** N/A