

UTHSCSA Graduate Medical Education Policies

Section 2	General Policies & Procedures	Effective:	May 2002
		Revised:	January 2007
Policy 2.1.11.		Responsibility:	Associate Dean for Graduate Medical Education

**Resident Grievance and Appeal Procedure –  
Regional Academic Health Center**

**Purpose** The Accreditation Council for Graduate Medical Education (ACGME) requires that sponsoring institutions provide fair and reasonable written institutional policies and procedures for grievance and due process, which may be utilized when academic or other disciplinary actions taken against residents could result in dismissal, non-renewal of a resident’s agreement or other actions that could significantly threaten a resident’s intended career development, including non-promotion to a subsequent PGY level.

**Policy** The Graduate Medical Education Committee (GMEC) serves as the appeals body for all residents in programs sponsored by the School of Medicine, independent of their funding source, for dismissal or non-renewal, or other actions that could significantly threaten a resident’s intended career development, including non-promotion to a subsequent PGY level.

Dismissal or non-renewal or non-promotion to a subsequent PGY level could occur because of failure to comply with the resident’s responsibilities, failure to demonstrate appropriate medical knowledge or skill as determined by the program’s supervising faculty, or failure to abide by the terms of the resident’s contract of employment. This appeals mechanism is open to a resident who has suffered an adverse action including dismissal during an academic year or non-renewal of contract for the following academic year in a categorical program in which there has been no explicit information provided to the resident that advancement was based on a pyramidal system, as well as non-promotion to a subsequent PGY level.

**Academic failure** – Residents are learners within our programs. When a resident fails to progress academically, it is the responsibility of the program director to document a warning period prior to instituting probationary status, dismissal, failure to reappoint, or failure to promote to the subsequent PGY level; to demonstrate efforts for the provision of opportunities for remediation; and to notify the Associate Dean for Graduate Medical Education (ADGME) of the proposed action(s). It should be very unusual to dismiss a resident for academic failure without a probationary period. Opportunities should be provided (and documented) for the resident to discuss with the program leadership the basis for probation, the expectations of the probationary period and the

evaluation of the resident's performance during the probation.

**Misconduct** – In addition to their academic responsibilities, residents have clinical responsibilities within our programs. Dismissal without warning may be justified in response to specific examples of misconduct. Examples include (but are not limited to) the following: lying; falsification of a medical record; violation of medical record privacy; being under the influence of intoxicants or drugs; disorderly conduct, harassment of other employees (including sexual harassment), or the use of abusive language on the premises; fighting, encouraging a fight, or threatening, attempting, or causing injury to another person on the premises.

**Informal procedure** – Residents who are concerned about actions within their programs that could significantly threaten their intended career development are encouraged to contact the Regional Dean (RD) or designate regarding their concerns. The RAD will work with the resident and the program as the particular situation requires.

**Formal grievance procedure** - In the event that a resident is to be placed on probationary status, dismissed, his/her training agreement not renewed, or not promoted to a subsequent PGY level, he/she may initiate a formal grievance procedure. The resident shall present the grievance in writing to the ADGME within thirty (30) working days after the date of notification of proposed adverse status. The grievance shall state the facts upon which the grievance is based and requested remedy sought. The ADGME or designate shall respond to the grievance with written answer no later than fifteen (15) calendar days after he/she received it.

If the resident is not satisfied with the response, he/she may then submit, within fifteen (15) days of receipt of the response, a written request for a hearing.

**Hearing** - The hearing procedure will be coordinated by the RD or designate, who will preside at the hearing, but will not be a voting participant except in the event of a tie vote. The hearing will be scheduled within thirty (30) days of the resident's request for a hearing. The members of the hearing panel will be appointed by the ADGME and the RD. The hearing panel will consist of at least 3 members of the Graduate Medical Education Committee. The RD will determine the time and site of the hearing in consultation with the resident and the program leadership. The resident shall have a right to self-obtained legal counsel at his/her own expense; however retained counsel may not actively participate or speak before the hearing participants, nor perform cross-examination.

The format of the hearing will include a presentation by a program representative; an opportunity for a presentation of equal length by the resident; an opportunity for response by the program representative, followed by a response of equal length by the resident. This will be

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followed by a period of questioning by the Graduate Medical Education Committee members present. The RD in consultation with the program representatives and the resident will determine the duration of the presentations and the potential attendees at the hearing.

The resident will have a right to request documents for presentation at the hearing and the participation of witnesses. The RD at his/her discretion will invite the latter, following consultation with the hearing panel.

A majority vote of the committee will be required to reverse an adverse action. The decision of the panel will be communicated to the resident by the ADGME within ten (10) working days after the hearing. This process will represent the final appeal within The University of Texas Health Science Center at San Antonio and its affiliated hospitals.