Resident/Fellow Remediation Policy and Grievance Procedure

Scope: All residents and fellows in training programs accredited by the Accreditation Council for Graduate Medical Education (ACGME), or Council on Dental Accreditation (CODA), or approved by the American Board of Medical Specialties (ABMS), and sponsored by the UW School of Medicine. Clinical programs that are not accredited by one of the entities listed here may also follow this policy.

Purpose: The University of Washington School of Medicine (UWSOM) is committed to providing high-quality graduate medical education (“GME”) through residency and fellowship programs. Residents and fellows (“residents”) are first and foremost learners and are expected to pursue acquisition of all Accreditation Council on Graduate Medical Education (ACGME)-required competencies that allow them to meet specific Milestones, which will prepare them for careers in their chosen specialties. In addition, residents must adhere to standards of professional conduct expected by UW Medicine. The policy and process described herein are designed to ensure that actions that might adversely affect a resident's status are taken only after appropriate, full and fair process, while simultaneously ensuring patient safety, quality of care, and the orderly conduct of training programs.

Policy:

A. General Principles of Resident Progress & Remediation

1. Program appointment, advancement, and completion are neither assured nor guaranteed to the resident, but are contingent on the resident's satisfactory demonstration of progressive advancement in scholarship and continued professional growth in all ACGME-required competency areas. Programs are required to evaluate residents on their Milestones and must have documented criteria for promotion and/or renewal of a resident's appointment. IR IV.C.1.

2. Unsatisfactory resident evaluation(s) can result in required remediation, a comprehensive list of which is contemplated in this policy.
   a. The Clinical Competency Committee (CCC) will advise the program director regarding resident progress, including promotion, remediation, and dismissal. CPR V.A.1.b).(1).(c).
   b. Program directors must ensure compliance with grievance and residency due process procedures as set forth in the ACGME Institutional Requirements and implemented by the sponsoring institution. CPR II.A.4.h).
   c. Program directors must consult with the GME Office in any remediation related matters.

3. Due process refers to an individual's right to be adequately notified of charges or proceedings against that individual and the opportunity to respond to these actions and potentially remediate their behaviors. IR IV.C.1.b.
   a. The program director should give the resident specific examples of concerning performance, expected behaviors, required remediation steps and a timeline for completion.

4. Disagreements regarding interpretation of the Residency Fellowship Position Appointment (RFPA) that are not related to academic or professional corrective actions described in this policy, must be grieved through the Grievance Policy and Procedure.
5. Modifications of the procedures described herein that do not materially harm the resident or affect the outcome of the case will be allowed. The final decision on allowing modifications will be made by the UWSOM Graduate Medical Education Committee (GMEC).

6. Summary of Remediation Actions:

<table>
<thead>
<tr>
<th>Remediation Action</th>
<th>Grievable</th>
<th>Reportable*</th>
<th>Retain in resident file</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident Evaluations</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
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<tr>
<td>Focus of Concern</td>
<td>No</td>
<td>No</td>
<td>Yes until remedied; then removed</td>
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<tr>
<td>Probation</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Suspension</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Non-reappointment</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Non-promotion</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Dismissal for Cause</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Program Refusal to Certify Board Application</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Training Site Actions</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Removal from Patient Care Activities</td>
<td>No</td>
<td>Situational</td>
<td>Situational</td>
</tr>
<tr>
<td>Separation from employment or unpaid status for failure to maintain proper immigration status</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Paid precautionary suspension pending investigation</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Actions by non-GME components of University</td>
<td>No</td>
<td>Situational</td>
<td>Situational</td>
</tr>
<tr>
<td>Other violations of RFPA</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

* This policy uses "Reportable" to mean should/must be shared with future employers or licensing bodies

B. GME Remediation Actions

This section describes remedial actions that may be taken by a GME program in response to performance or behavior on the part of a resident that is determined to be academically or professionally deficient or professionally deficient.

Residents and their program directors and faculty are encouraged to make efforts to resolve disagreements or disputes by discussing their concerns with one another. When appropriate, reasonable efforts should be made to take action(s) that best address the deficiencies and needs of the individual resident and/or the training program.

1. Remediation Actions that Can be Grieved

This section contains actions that allow a resident the opportunity to grieve the program’s decision. The grievance procedure is described in section C.1.

a. Non-Reappointment

i. The decision regarding non-reappointment of a resident will be made by the program director in consultation with the program’s CCC. The resident will be notified of non-reappointment as soon as possible, consistent with any board requirements. If no board requirements govern timing, notification of non-reappointment should occur at least four months prior to the then-current termination date of the resident’s existing appointment. Notification will be in writing to the resident and will include a summary of the resident’s performance that justifies the non-reappointment. IR IV.C.1.a.
ii. The department at its sole discretion may revisit any non-reappointment decision at a later date and may rescind the non-reappointment decision and offer re-appointment. The latest that a program may rescind a non-reappointment decision is forty-five (45) calendar days prior to the end of the resident’s existing appointment. The department’s decision to rescind or not rescind a non-reappointment notice is not subject to review but must be discussed with the GME Office.

b. Non-Promotion

i. The program may determine a resident has not performed to a sufficient level to justify progressing to the next year of their training program. In such cases, the program may require the resident to repeat the year at the same R-level. A resident will be notified of non-promotion as soon as possible in keeping with any board requirements. If no board requirements govern timing, notification of non-promotion should occur at least four months prior to the then-current termination date of the resident’s existing appointment. The notification will be in writing to the resident and will include a summary of the resident’s performance that justifies the non-promotion action. IR IV.C.1.a.

In some cases, residents will be required to make up specific rotation(s) or assignment(s) for a portion of the year, due to performance concerns or absence for medical or personal leave. If the program delays promotion to the next level of training, but issues a new agreement at the R-level for which the resident would have otherwise been eligible, the decision is not subject to grievance. Similarly, if a resident is required to make up less than a full year of training due to repeating rotations, medical or personal leave, extension(s) to the resident’s current agreement or new agreements are not subject to grievance. Any additional training must be performed prior to graduation from the program. In such cases, the agreement training extension will include prorated stipends and benefits at the current R-level until the resident completes all required assignments.

c. Suspension

i. A program may suspend a resident from some or all education and clinical activities in response to the resident’s inability to provide safe patient care, or for failure to meet other obligations of the educational program or the Residency and Fellowship Position Appointment (RFPA). Reasons for suspension may include, but are not limited to:

1. Unprofessional behavior:
   a. Violation of patient privacy rules, including but not limited to HIPAA regulations;
   b. Unexcused absences beyond one day without reporting to the program director;
   c. Conduct that is illegal, unethical, or in conflict with the University of Washington, School of Medicine or training regulations site policies or compliance programs;
   d. Conduct that is inconsistent with the UW Medicine Policy on Professional Conduct;
   e. Performing resident duties while in an impaired physical or mental state

2. Failure to comply with conditions of probation or other corrective action.

3. Academic and/or professional deficiencies warranting removal of the resident from patient care.
ii. The length of the suspension should be appropriate to address the reason(s) for the suspension. A suspension may be indefinite in length if it requires action by the resident, e.g., obtaining proper credentials. Suspension may be paid or unpaid depending on the circumstances and the judgment of the program director in consultation with the GME Office.

d. Program Refusal to Certify Board Application

A program may allow a resident to complete training but may refuse to approve the resident’s application for board certification. In such a case, the program will notify the resident of this decision as soon as possible, and will provide the resident with a written explanation for the action.

e. Dismissal for Cause

A resident may be dismissed for cause if s/he fails to meet standards of performance expected at the his/her level of training, fails to fulfill the conditions of appointment to the program, or fails to meet the requirements of the hospital or clinic to which s/he is assigned. The resident’s overall academic performance and professional behavior shall be considered in decisions to dismiss for cause. If a resident is dismissed for cause, the program director must notify the resident in writing of the reason(s) for the dismissal. IR IV.C.1.a.

2. Remediation Actions that Cannot be Grieved

The following remediation actions cannot be grieved. Some of these actions contain mitigation steps that the resident may pursue; these are included as relevant below.

a. Resident Evaluations

The ACGME requires programs to conduct formal performance reviews of residents semi-annually. CPR V.A.1.b).(1).(a); CPR V.A.2.b).(4). Evaluation of resident performance includes assessment based on the specialty-specific Milestones. CPR V.A.2.b).(1). If a resident exhibits sub-standard performance, the program director may provide notice to, or request assistance from a faculty advisor, department chair, CCC, department or division faculty and/or appropriate mental health specialist. Upon notification of an academic or professional performance issue, the program director will decide whether it can be addressed through the normal evaluation processes or whether formal intervention and remediation is required. Residents may submit written responses to their evaluations within thirty (30) calendar days. Written responses will be retained in the resident's program file.

b. Focus of Concern

i. A focus of concern is a document that details significant issue(s) of resident performance or behavior that require(s) remediation. A meritorious written complaint by a patient, sentinel event, tort claim, or professional liability lawsuit should, at minimum, trigger a focus of concern. A focus of concern letter should include recommended actions that the resident should follow to resolve the issue(s) described. Failure to adequately address the focus of concern in the prescribed time, may lead to discipline including probation, suspension, non-reappointment, non-promotion, or dismissal.

ii. Focus of concern documentation will not usually be considered part of the resident’s program file or reported as a negative evaluation to outside entities, as long as the
recommended actions or remediation plan has been completed within the prescribed
time frame. A focus of concern letter can be made part of the resident’s permanent file at
the discretion of the program director. A resident may request that focus of concern
documentation be removed from his/her program file only after successful completion of
the remediation. The program director will confirm with the resident that the letter has
been removed or will explain why it will not be removed.

iii. The program director will not report the focus of concern on subsequent privileging,
credentialing or board requirement inquiries, but may report the behavior that led to the
focus of concern.

c. Probation

i. Probation is a serious academic action that is taken in response to documented,
substandard performance or behavioral issues, violations of educational standards or
policy, and/or inability to remediate a focus of concern. Program directors will notify
residents in writing of their probationary status, the reasons for the probationary status,
the expectations that must be met to remediate the probationary status, and the
prescribed time frame to remediate.

ii. Documentation of probation will become part of the resident’s program file and will be
disclosed to other agencies or persons as appropriate when the individual seeks hospital
privileges or licensure, or if the individual continues training in a different program.

iii. The program director will notify the resident in writing when a probationary status has
been successfully remediated. This letter will be retained in the resident’s program file.

iv. The resident’s failure to successfully correct the substandard performance or behavioral
issues giving rise to probation may result in progressive discipline including extension of
probationary period, suspension, non-reappointment, non-promotion, or dismissal.

d. Training Site Actions

In situations where a training site, such as a hospital or clinic, withdraws permission for a resident
to train at that site, the resident may be reassigned to another site or to administrative activities,
and/or be subject to disciplinary action depending on the circumstances that led to the
withdrawal. A training site’s withdrawal of permission to train may also result in a legal
requirement that the University notify an appropriate licensing body of such action. Where
disciplinary action includes suspension, termination, or notice of non-reappointment, the
resident’s exclusive right to grieve is through the procedure described in this policy. Residents are
not entitled to medical staff corrective action processes, procedures, or appeal rights included in
any training site medical staff bylaws.

g. Removal from Patient Care Activities

A resident may be automatically be removed from patient care activities for any of the reasons
listed below, following notification in writing. The duration of removal will extend until the
deficiency described is resolved to the program’s satisfaction. Residents may be assigned to
non-clinical duties or other status at the discretion of the program director. If assignment to
another activity is not practical, the removal from patient care may be unpaid.
1. Lack of an unrestricted medical or dental license for the state where the resident is training;
2. Failure to obtain or maintain credentials required for the clinical practice, including an individual Drug Enforcement Administration registration;
3. Failure to complete required orientation and/or annual training requirements;
4. Failure to comply with the UW Resident/Fellow Outside Work Policy;
5. Failure to maintain compliance with UW Medicine immunization requirements

h. Separation from employment or unpaid status for failure to maintain proper immigration status for legal employment as a resident at the University of Washington

Residents who become ineligible for employment with the University of Washington due to changes in their immigration status will be separated from employment or placed in unpaid status and may not work in any capacity, including voluntary, for the University of Washington or within UW Medicine. They will be placed on inactive, unpaid status (or whatever status is deemed appropriate by Academic Human Resources) until their work eligibility status is resolved.

i. Paid precautionary suspension pending investigation

In cases of egregious conduct, imminent danger to patients, self or others, or when immediate leave of the resident from direct patient care is reasonable in light of the surrounding facts and circumstances, a resident may be removed from patient care and/or other educational activities, and placed on paid precautionary suspension pending investigation. A precautionary suspension is not reviewable and is set by the program, in consultation with the GME Office, for a temporary duration pending completion of the investigation. The resident will be notified in writing of the details of the precautionary suspension.

This precautionary suspension will last as long as needed for the investigation to be completed and the program and GME to determine any appropriate actions based on the results of the investigation. Actions based on the results of a completed investigation may include withdrawal of suspension or any other action described above. A resident will be notified of the outcome in writing at the conclusion of the investigation. If the outcome is a remediation action that can be grieved, the resident may seek review using the procedure described in this policy.

j. Actions by Non-GME Components of the University

If a resident violates University, UW Medicine, or UWSOM policy, and is consequently disciplined by one of these entities under policies and procedures outside the control of the GME Office, the resident may not grieve discipline through the procedure defined in this policy. The resident may, however, exercise due process procedures available from the entity taking action. Subsequent actions taken by the resident’s program in response to actions by non-GME components may be grieved as described in this policy.

C. Remediation Grievance Procedure

i. The process described here is the exclusive mean of grievance for academic or professional corrective actions.

ii. This grievance procedure allows secondary review of a programs’ actions based on assessment of the resident’s academic and professional performance. The grievance procedure is not an adversarial or legal proceeding but is the exercise of academic and professional judgment by GME faculty and officials regarding whether the resident has the necessary ability to uphold the
academic and professional standards of the University of Washington GME program and to perform adequately as a physician.

1. Request for Review

a. In a situation where a program decides that a resident will be subject to non-renewal of appointment, non-promotion, suspension, or dismissal for cause, the resident may choose to grieve the program’s decision after meeting and discussion with the program director.

b. If the resident chooses to grieve the remediation decision, s/he must either notify the program director or the GME Office. Once notified of the resident’s decision to grieve, the program director or the GME Office will notify the Chair of GMEC, and will provide written notice to the resident that contains:

1. A copy of the remediation documentation;
2. Notice that a grievance must be formally initiated by the resident in writing to the Chair of GMEC within fourteen (14) calendar days from receipt of the remediation documentation; and
3. A copy of this policy, and other relevant policies.

c. The Chair of GMEC must receive a remediation grievance request in writing within fourteen (14) calendar days from receipt of the remediation documentation. If no request for review is received within this timeframe, the remediation becomes final and no grievance is permitted.

d. Within five (5) business days of receipt of the resident’s written request for remediation grievance, the GMEC Chair will provide the program director/designee a copy of the resident’s written request for remediation grievance. The GMEC Chair will also acknowledge in writing to the resident the timely receipt of the grievance request.

2. Composition of Grievance Remediation Committee

a. The Chair of GMEC will convene an ad-hoc panel, hereafter referred to as the Grievance Remediation Committee (GRC), consisting of four members of the GMEC as follows:

1. Two GMEC members who hold UW faculty status and who are not members of the same department as the resident who is requesting review;
2. A resident or fellow member of the GMEC who is not a resident in the same department as the resident who is requesting review; and
3. The Chair of GMEC will designate a member of GMEC to serve in a non-voting status as Chair of the GRC and will be responsible for all rulings as to procedure and conduct of the grievance.

b. If the Chair of the GMEC is unable to identify two faculty members and a resident or fellow member of the GMEC who are able to perform the duties of the GRC, the Chair shall appoint other UW faculty or residents as needed to fill the panel slots, with the restriction that one of the committee members will be a current UW resident or fellow and none will be members of the same department as the resident requesting review. The Chair of the GMEC may designate alternates for the faculty or resident members to ensure a full committee is available on the day of the GRC meeting. These alternates will not participate or witness the meeting unless the original designated members are unable to attend the meeting.

3. Grievance Review Committee Charge and Responsibilities
The GRC is charged with reviewing the program’s remediation decision and issuing a Recommended Outcome. The GRC’s sole determination is whether the program’s remediation decision was arbitrary or capricious. The burden of proof is on the resident to demonstrate that the program’s decision was arbitrary or capricious.

Arbitrary or capricious action is willful and unreasoning action, without consideration and in disregard of facts or circumstances. Where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration even though it may be believed an erroneous conclusion has been reached.

Only those members of the GRC who are present at the meeting may participate in the Committee deliberations. Submission of a Recommended Outcome by the GRC requires a quorum of those present at the meeting and simple majority vote. If the GRC is unable to achieve a simple majority, the Recommended Outcome(s) of the Committee should reflect the views of each of the eligible committee members.

4. Procedure

a. The Chair of the GRC will set a date for the meeting a minimum of thirty (30) calendar days after the program director/designee receives notice of intent to grieve. The program may request an extension, which cannot exceed an additional thirty (30) calendar days. The decision to grant an extension will be made by the Chair of the GRC.

b. The program director/designee shall provide the following information to the GRC, a minimum of five (5) business days before the meeting:

1. A statement of the matters asserted by the program;
2. A list of witnesses who may be presented at the GRC meeting by the program director/designee; and
3. A list of documents to be presented at the GRC meeting by the program director/designee.

c. The resident may submit a written statement to the Chair of the GRC instead of or in addition to making a presentation at the GRC meeting. The Chair of the GRC will submit the Resident’s statement to the full committee. The GRC will make its decision based on material furnished by program director/designee, the program director's/designee’s written and/or verbal statement, the resident’s written and/or verbal statement, and review of the resident’s program file.

d. The Chair of the GRC shall ensure substantial compliance with the following procedures:

1. The GRC Chair should set a date by which all materials from both the program director/designee and the resident should submit materials for GRC review. Each party’s materials will also be shared with the other party.
2. Legal discovery is not available, including but not limited to pre-meeting witness interviews, requests for records, interrogatories, or depositions.
3. The resident may be accompanied by an advisor or legal counsel at the Resident’s own expense. The program director/designee and GRC may request legal counsel from the Attorney General’s Office, University of Washington Division. However, legal counsel for either party will not be allowed to speak at the GRC meeting on behalf of any person nor actively participate in the proceedings unless permission is granted by the Chair of the GRC.
4. The resident and program director/designee, are entitled to hear all presentations and examine all documents presented at the GRC meeting. The resident and program
director/designee may present documents and witnesses in support of their respective positions and may ask questions of any other witnesses.

5. The Chair of the GRC shall give all parties full opportunity to submit and respond to statements and positions.

6. All components of the grievance process will be closed to public observation.

7. All testimony of parties and witnesses shall be made under oath or affirmation.

8. No communications are permitted by the resident, program director/designee or their respective representatives to GRC members regarding any issue in the proceeding other than those communications that are necessary to maintain an orderly meeting process. All other communications regarding the review are to be directed to the Chair of the GRC.

9. Neither the resident nor program director/designee have the right to be present during the deliberations of the GRC.

10. All proceedings of the GRC will be conducted with reasonable dispatch and be completed as soon as possible, consistent with fairness to all parties involved. The Chair of the GRC shall have the discretion to continue the review meeting if so requested by either party, or as otherwise appropriate.

11. An adequate summary of the proceedings will be kept. Such a summary shall include all documents that were considered by the GRC and may include a tape recording of the presentations and any other documents related to the meeting. Either party, at its own expense, may cause a court reporter approved by the GRC Chair to prepare a transcript from the Committee’s record, or cause additional recordings to be made during the meeting if the making of the additional recording does not cause distraction or disruption. A party’s request to have a court reporter present must be made to the GRC Chair at least five (5) business days before the meeting.

5. Case Ruling by Dean

a. The GRC shall submit its Recommended Outcome and a copy of the record to the Dean of the UWSOM, the Chair of GMEC, the program director/designee, and the resident within ten (10) calendar days of the conclusion of the review meeting record. The Recommended Outcome shall reflect the GRC’s finding(s) regarding whether the program’s remediation decision was arbitrary or capricious. Such finding(s) shall be based exclusively on the record in the review meeting and matters officially noticed in that proceeding.

b. Within thirty (30) calendar days of receipt of the GRC’s recommendation, the Dean will forward a written final decision to the resident. The final decision of the Dean shall include a statement of findings and conclusions.

c. Within ten (10) calendar days of the resident’s receipt of the Dean’s final decision, the resident may file a written request for reconsideration with the Dean stating the specific grounds upon which relief is requested. Petitions submitted later than ten (10) calendar days from receipt of the final decision will not be considered. The petition for reconsideration will be deemed to be denied unless the Dean notifies the resident of a different outcome within twenty (20) calendar days of receipt of the request for reconsideration. A denied petition for reconsideration does not delay the effective date of a dismissal for cause.

D. Remedy

1. The stipend and fringe benefits of the resident shall be continued during the period necessary to assure due process, provided that such stipend and fringe benefits shall cease at the expiration of the resident’s appointment or the effective date of termination by the Dean, whichever shall occur first.
2. Rulings by the Dean that are made in favor of the resident may not include remedies beyond reinstatement and recovery of any stipend and benefits lost as a result of the disciplinary action.

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i ACGME Milestones: [http://acgme.org/What-We-Do/Accreditation/Milestones/Overview](http://acgme.org/What-We-Do/Accreditation/Milestones/Overview)

ii Residents in non-ACGME accredited training programs may follow different guidelines to determine competency.


iv UW GME Clinical Competency Committee Policy: [https://www.uwmedicine.org/education/Documents/gme/CCC%20Policy%20FINAL.pdf](https://www.uwmedicine.org/education/Documents/gme/CCC%20Policy%20FINAL.pdf)

v ACGME Common Program Requirements: [http://www.acgme.org/What-We-Do/Accreditation/Common-Program-Requirements](http://www.acgme.org/What-We-Do/Accreditation/Common-Program-Requirements)

vi UW Medicine Policy on Professional Conduct: [https://www.uwmedicine.org/about/policies/professional-conduct](https://www.uwmedicine.org/about/policies/professional-conduct)