

3.B.9.

Appeal

If the resident disagrees with any decision that would jeopardize the normal progress toward the completion of training, that resident has the right to appeal, as described in the *University of Connecticut School of Medicine Policy on Resident Appeals* below.

Approved by University of Connecticut Health
Center School of Medicine Faculty Council May, 1994
Wording updated 5/06
Reviewed 4/08

UNIVERSITY OF CONNECTICUT SCHOOL OF MEDICINE POLICY ON RESIDENT APPEALS*

1) When a resident receives notice of any action by the Program Director which could prevent him/her from normal progress in completing the full term of a residency program, he/she shall have the right to appeal such action. As described in section 5.3. of the **University of Connecticut Policy on Resident Evaluation, Promotion and Dismissal** placement of a resident on probation can be appealed. An adverse decision at the conclusion of the probationary period can also be appealed. The required procedures leading to termination or denial of credit or other adverse action are described in the Evaluation, Promotion and Dismissal Policy.

1.1. The notice of action to the resident from the Program Director should substantially conform to the following:

1.1.1. It should be in writing.

1.1.2. It should be authored by the Program Director.

1.1.3. It should state generally the reasons for the action.

1.1.4. It should inform the resident of his/her right to appeal by contacting the Associate Dean for GME or designee, UConn Health Center School of Medicine, within seven (7) days following receipt of said notice of action.

1.1.5. It should be delivered to the resident in a manner which ensures a signed and dated receipt of delivery (i.e., if hand-delivered, obtain the resident's signature when given over; if mailed, use certified mail, return-receipt requested).

1.1.5.1. Concurrently, a copy of the notice of action should be sent, by the Program Director, to the Associate Dean for GME or designee, UConn Health Center, School of Medicine.

1.2. If a resident is on probation, whether or not this status is appealed, it is expected that the resident will continue work within the residency program and will continue to receive all pay and

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In keeping with the *Graduate Medical Education Directory* and the ACGME, the word a resident@ is used to designate all graduate medical education trainees in University of Connecticut School of Medicine Graduate Medical Education Programs.

benefits. If the resident has been terminated from the training program and/or suspended from duty and is appealing that decision, the resident shall not receive any weekly compensation. Benefits, however, will continue. If a decision is made to rescind the termination and reinstate the resident, that reinstatement is with back pay and other related benefits.

1.3. If the action is rescinded as a result of the process, academic credit for the resident's activities during the appeal process will be conferred, and the resident shall be given opportunity to continue his/her training.

1.4. The resident shall have the right to retain legal counsel at any time during the formal appeal process; hereinafter, all reference to the resident may infer delegation to his/her duly authorized representative.

2) To initiate the appeal process, the resident shall notify the Associate Dean for GME or designee, UConn Health Center, School of Medicine.

2.1. The notification to the Associate Dean for GME or designee should substantially conform to the following:

2.1.1. It should be in writing.

2.1.2. It should be clearly marked "Urgent and Confidential."

2.1.3. It should be delivered to the Associate Dean for GME or designee at the University of Connecticut School of Medicine within seven (7) days of receipt by resident of notice of action.

2.1.4. It should be delivered in a manner which ensures a signed and dated receipt of delivery.

2.2. Failure to notify the Associate Dean for GME or designee within the prescribed time period will terminate the appeal process at this point.

3) Upon receipt of such notice, the Associate Dean for GME or designee shall meet with the resident within 10 calendar days (except by agreement of the Dean and the resident), to discuss the circumstances surrounding the action and to clarify details of the review procedures available to the resident.

3.1. During this meeting, the Associate Dean for GME or designee shall provide to the resident, a list of faculty from which he/she is to select three names in order to designate an eligible faculty member responsible for appointing an ad hoc Review Panel.

3.1.1. Eligible faculty is defined as: Full-time physician faculty members of clinical departments in the School of Medicine at the rank of Assistant Professor or higher.

3.1.2. Such faculty members should have considerable involvement in a residency training program sponsored by the School of Medicine.

3.1.3. Faculty may not be members of the department which sponsors the resident's program.

4) Within five (5) calendar days of this meeting (except by agreement of the Associate Dean for GME or designee and the resident), the resident must notify the Associate Dean for GME or designee of his/her decision to formally appeal the action.

4.1. Such notification shall conform to 2.1.1., 2.1.2., 2.1.3., 2.1.4.

Additionally:

4.1.1. Such notification must include the reason(s) for the requested formal appeal (i.e., the perceived errors in fact or procedure that led to an adverse decision against the resident).

4.1.2. Such notification must include the names of the three (3) eligible faculty members chosen by the resident.

5) Within three (3) calendar days following receipt of notification of formal appeal, the Associate Dean for GME or designee shall appoint one of the named faculty to designate an ad hoc Review Panel.

6) Within three (3) days of accepting the Dean's appointment, the appointed faculty member shall designate an ad hoc Review Panel consisting of two (2) faculty members and one (1) resident. One of the faculty members shall be designated as Chairperson of the Panel.

6.1. The appointed faculty member shall not serve as a member of the ad hoc Review Panel.

6.2. Faculty members of the Panel must be in conformance with the criteria listed in 3.1.1., 3.1.2. and 3.1.3. above.

6.3. The resident member of the Panel shall be in his/her final year of training in a residency program sponsored by a department other than that which sponsors the aggrieved resident's program.

6.4. No member of the Panel should have prior knowledge of the case, which might predispose his/her consideration of it.

7) Within seven (7) calendar days following the ad hoc Review Panel's designation, its Chairperson, through the Office of the Associate Dean for GME or designee, shall notify the aggrieved resident, the members of the Panel, the Program Director and the Associate Dean for GME or designee, of the time and place at which the Panel shall be convened to formally hear the case.

7.1. Notification to the resident of the time and place of the hearing shall be by both first-class mail and by certified mail, return-receipt requested.

The ad hoc Review Panel shall convene no later than 21 calendar days following its designation.

Failure on the part of the resident to appear for the hearing will terminate the appeal process at this point and the resident abrogates any further rights of appeal.

7.3. The Associate Dean for GME or designee shall serve as an ex-officio non-voting member of the Review Panel.

7.4. In preparation for this hearing, the appealing resident, the Program Director, and each member of the ad-hoc Review Panel shall have the right to review and consider all pertinent material, including all documentary material pertaining to the resident maintained by the School, Department and Program. All correspondence shall be directed to (and through) the Office of the Associate Dean for GME or designee, who will be responsible for the distribution of materials to all participants in the hearing. If materials are submitted directly to the Panel Chairperson, it is the Chairperson's responsibility to transmit this material to the Office of the Associate Dean for GME or designee in a timely manner, for distribution.

8) The hearing format shall not be rigidly prescribed, except by joint consent of the Panel's Chairperson, the resident, and the Program Director. The hearing shall, however, include at least the following elements:

8.1. The Chairperson shall open the hearing by briefly summarizing the case.

8.2. The Program Director shall present evidence for upholding the action, including calling supportive witnesses if appropriate. A list of such witnesses should be supplied to the Associate Dean for GME or designee and to the resident (or his/her designee), at least 48 hours prior to the hearing.

8.3. The resident shall present evidence for rescinding the action, including calling supportive witnesses. A list of such witnesses should be supplied to the Associate Dean for GME or designee and to the Program Director, at least 48 hours prior to the hearing.

8.4. Negotiations for settlement with the resident are permitted up to 48 hours or 2 full business days, if the hearing is on a Monday or Tuesday, prior to the scheduled hearing.

8.5. Witnesses called by either side shall be subject to cross-examination and recall at the discretion of the Chairperson.

8.6. The panel's scope of review shall be to determine (1) whether proper procedures were followed in the process relative to the action which prevented the resident from completing the full term of his/her residency program; and (2) whether there were reasonable grounds on which the decision was made.

8.7. The length of the hearing shall be at the discretion of the Chairperson, but shall generally not exceed four hours.

8.8. At the conclusion of closing arguments and/or statements, the Review Panel shall immediately enter into closed session to deliberate and decide either to uphold or rescind the action; no intermediate decision shall be made.

8.9. An accurate record of this hearing shall be kept, including an audio recording, if possible. Hearing transcription shall be the responsibility of the Office of the Associate Dean for GME or designee.

9) The ad hoc Review Panel's decision shall be considered final within the School of Medicine.

9.1. Such decision may be communicated verbally first to the resident then to other principals at the discretion of the Panel Chairperson.

9.2. Such decision shall be delivered in writing to all principals in the hearing within three (3) calendar days following the hearing. Written notification to the aggrieved resident shall be sent by both regular mail and by certified mail, return-receipt requested.

10) Preparation and reproduction of the ad hoc Review Panel's final written report and letter of notification shall be the responsibility of the Panel Chairperson.

10.1. Copies of all written communication between the Program Director, the resident, the Chairperson of the ad hoc Review Panel, or their legal representative, shall be sent to the Office of the Associate Dean for GME or designee.

11) Any appeal beyond the School of Medicine should be to the Dean of the School of Medicine and Executive Vice President for Health Affairs, should state the basis on which this further appeal is made, and should be delivered or mailed to the Dean within seven (7) days from the date of the ad hoc committee hearing. Two weeks from the time the Dean of the School of Medicine and Executive Vice President for Health Affairs has all of the material, a decision must be made and reported to the resident and to the Office for Academic Affairs and Education.

12) Unless otherwise required by law, CAHC policy or UCHC policy, the Review Panel's, Dean's or any other decision or any proceedings shall be kept confidential at the request of either party.

Approved by University of Connecticut School of
Medicine Faculty Council, May, 1994
Revised with GMEC Approval 1/7/97
Updated 5/06
Reviewed 5/08