Due Process Policy

Scope

The policy applies to all ACGME-accredited residency and fellowship programs at CCHS.

Purpose

The Sponsoring Institution **must have** a policy that provides resident/fellows with due process relating to the following adverse actions regardless of when the action is taken during the appointment period: non-renewal, non-promotion, suspension or dismissal. (Sponsoring Institution Requirements IV.C.1.b).

This Policy does not apply to decisions resulting in Letters of Academic or Administrative Concern or Probation (see Probation and Remediation Policy).

Policy and Guidelines

All communication regarding due process will occur by certified letter, hand delivery or encrypted email[1], each with a requirement to obtain the written or electronic signature of the receiving party as well as date of receipt. Adverse actions that involve non-renewal, non-promotion, suspension or dismissal that can significantly jeopardize a resident/fellow's intended career are subject to appeal and the process shall proceed as noted below. A resident/fellow who at any stage of the process fails to file a request for action by the deadlines indicated agrees to accept the determination at the previous stage. Any time limit set forth may be extended by mutual written agreement of the parties.

If the resident/fellow contends that the proposed adverse action is based, in whole or in part, on race, sex (including sexual orientation, gender identity or gender expression), religion, national origin, age, Veteran status, and/or disability harassment and/or hostile work environment or retaliation for having complained of such or participated in an investigation of such, the resident/fellow shall inform the Chair of the Graduate Academic Affairs Committee of that contention. The Chair of the Graduate Academic Affairs Committee shall, if appropriate, invoke the proceedings set out in the UA Sexual Misconduct and/or the UA Harassment Policies. All further actions relative to a Request for Adverse Action shall not proceed until a review has been conducted pursuant to the UA Sexual Misconduct and/or the UA Harassment Policies or the Chair of the Graduate Academic Affairs Committee, in consultation with the Designated Harassment Officer (affiliated with the Dean's Office) or other appropriate designee), determine another course of action.

In any case of a potential conflict of interest on the part of the Program Director, Assistant Dean for Academic Affairs or the Associate Dean for Academic Affairs, the Chair of the Graduate Academic Affairs Committee and the Dean of the College will select an appropriate replacement.

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Step One: Program Director's Request for Adverse Action to Assistant Dean for Academic Affairs. Recommendation for non-renewal, non-promotion, suspension or dismissal shall be made by the Program Director in the form of a **Request for Adverse Action**. The Request for Adverse Action shall be in writing and shall include: 1) a summary of the discussions (oral and/or written) already held with the resident/fellow indicating prior attempts to address the deficiencies and/or charges directly with the resident/fellow, 2) proposed disciplinary action, 3) a written statement of deficiencies and/or charges registered against the resident/fellow, 4) a list of all known documentary evidence, 5) a list of all known witnesses, and 6) a brief statement of the nature of testimony expected to be given by each witness. The **Request for Adverse Action** shall be delivered in person to the Assistant Dean for Academic Affairs. The Assistant Dean for Academic Affairs has five working days to render a decision. If the Assistant Dean for Academic Affairs finds that the charges registered against the resident/fellow appear to be supportable on their face, the Assistant Dean for Academic Affairs shall give **Notice** to the Program Director and the resident/fellow in writing of the intent to initiate proceedings that might result in non-renewal, non-promotion, suspension or dismissal. The **Notice** to resident/fellow shall include the **Request for Adverse Action** and will occur by certified letter, hand delivery or encrypted email[1], each with a requirement to obtain the written or electronic signature of the receiving party as well as date of receipt.

Step Two: Assistant Dean for Academic Affairs Decision. Upon receipt of **Notice**, the resident/fellow shall have five working days to meet with the Assistant Dean for Academic Affairs and present evidence in support of the resident/fellow's challenge to the **Request for Adverse Action**. Following the meeting, the Assistant Dean for Academic Affairs shall determine whether the proposed adverse action is warranted. The Assistant Dean for Academic Affairs shall render a decision within five working days of the conclusion of the meeting. The decision, along with the **Notice** and **Request for Adverse Action**, shall be sent to the resident/fellow by certified letter, hand delivery or encrypted email[1], each with a requirement to obtain the written or electronic signature of the receiving party as well as date of receipt. Copies will also be provided to the Program Director, Associate Dean for Academic Affairs and the Chair of the Graduate Academic Affairs Committee.

Step Three: **Appeal to Associate Dean for Academic Affairs.** If the resident/fellow is dissatisfied with the decision reached by the Assistant Dean for Academic Affairs, the resident/fellow shall have an opportunity to appeal to the Associate Dean for Academic Affairs. The resident/fellow shall have five working days to meet with the Associate Dean for Academic Affairs and present evidence in support of the resident/fellow's challenge to the **Request for Adverse Action** and the Assistant Dean for Academic Affairs decision. The Associate Dean for Academic Affairs shall render a decision within five working days of the conclusion of the meeting. If the Associate Dean for Academic Affairs finds that the charges registered against the resident/fellow appear to be supportable on their face, the Associate Dean for Academic Affairs shall give **Notice** to the resident/fellow in writing of the intent to finalize proceedings that might result in non-renewal, non-promotion, suspension or dismissal. The decision, along with the **Notice** and **Request for Adverse Action**, shall be sent to the resident/fellow by certified letter,

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Hand-delivery or encrypted email[1], each with a requirement to obtain the written or electronic signature of the receiving party as well as date of receipt. Copies will also be provided to the Program Director, Chair of the Graduate Academic Affairs Committee, and the Dean of the College.

Step Four: Notice of Appeal Alleging Procedural Defects to the Dean. If the Associate Dean for Academic Affairs' final decision is to impose adverse measures and the resident/fellow is dissatisfied with the decision reached by the Associate Dean for Academic Affairs, the resident/fellow may appeal to the Dean of the College of Community Health Sciences with such appeal limited to alleged violations of procedural due process only. The resident/fellow shall deliver **Notice of Appeal** to the Dean of the College within five working days after receipt of the Associate Dean for Academic Affairs' decision. The **Notice of Appeal** shall specify the alleged procedural defects on which the appeal is based. The Dean of the College's review shall be limited to whether the resident/fellow received procedural due process. The Dean of the College shall have five working days to accept, reject, or modify the Associate Dean for Academic Affairs' decision. The decision of the Dean of the College shall be final. The Dean's written decision shall be sent to the resident/fellow by certified letter, hand delivery or encrypted email[1], each with a requirement to obtain the written or electronic signature of the receiving party as well as date of receipt. Copies will also be provided to the Program Director, the Chair of the Graduate Academic Affairs Committee, the Assistant Dean for Academic Affairs and the Associate Dean for Academic Affairs.

Personnel: Should any position(s) within CCHS be vacant at a time when such role is required to implement any portion of this policy, the Dean and/or DIO may designate an impartial member of the CCHS faculty (for example, another Associate Dean, a Department Chair or a tenured professor) to serve in that role on an interim basis in the context of this policy implementation only.

Conflict of Interest: In any case of a potential conflict of interest on the part of the Program Director, Assistant Dean for Academic Affairs, or the Associate Dean for Academic Affairs, then the Chair of the Graduate Academic Affairs Committee and the Dean of the College will select an appropriate replacement.

Related Policies:
- UA Sexual Misconduct Policy
- UA Harassment Policy
- UA Non-Discrimination Notice – Equal Opportunities Program
- Probation and Remediation Policy

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