


# Title: Graduate Medical Education - Grievance Policy for Residents

	<b>Document Owner:</b> Crystal Arellano	<b>Last Approved Date:</b> 12/03/2024
	<b>Content Expert:</b> Christi McCoy	

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## I. Policy Statement

- a. Grievance procedures and due process provisions for residents are requirements for Accreditation Council for Graduate Medical Education (ACGME) institutional and program accreditation. This policy establishes fair processes and procedures for the adjudication of resident grievances related to remediation or Disciplinary Actions that could impact a resident’s matriculation or intended career.
- b. PDs have the primary responsibility to monitor the resident’s progress and take appropriate academic and administrative disciplinary action based on the resident’s performance, including input provided by the CCC in accordance with all ACGME core competencies.
- c. The grievance procedure shall not be used to question a rule, procedure, or policy established by the ACGME, individual Graduate Medical Education (GME) training programs, or the University of Missouri System. Rather, it shall be used as due process by a resident who believes that a rule, procedure, or policy has not been followed in connection with a grievable action as described herein.
- d. The PD, Program CCC, Department Chair or Division Director and the resident should attempt to resolve problems with a resident’s performance and/or behavior on an informal basis or through use of the GME Disciplinary Policy prior to invoking the procedure set forth below.
- e. Neither the placement on, nor the failure of a Remediation Plan is grievable under this Grievance Policy.
- f. Complaints of discrimination, harassment, or sexual misconduct are not grievable issues under this policy, such issues should be addressed following the applicable Equity Resolution Processes found in the Collected Rules and Regulations, Chapter 600. A report of such issues should be filed through the MU Office of Institutional Equity: [Incident Report Form](#).

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## II. Definitions

**Disciplinary Action:** Probation, suspension from the program or service responsibilities, program renewal without promotion, non-renewal of the training program, or termination.

**Clinical Competency Committee (CCC):** The Committee responsible for the evaluation, monitoring, and reporting of each Resident during the proscribed curriculum of training. The CCC will advise the PD regarding Resident progress, including recommendations for promotion, remediation, and disciplinary action(s).

**Grievance:** Any dispute concerning a resident's disciplinary action that involves a violation, a misinterpretation, or arbitrary application of a policy, regulation, or procedure. This could be related to the privileges, responsibilities, or terms and conditions of the residency training program, including academic or other disciplinary actions, or the employment of the resident physician. A resident may grieve a disciplinary action.

**Program Director (PD):** The specialty faculty member who supervises and has the authority and accountability for the operation of that Program.

**Reportable Action:** An action that results in extension of training, election not to promote, probation, suspension, non-renewal of contract, or dismissal\*.

**Resident** – Resident means an intern, resident, or fellow who is formally accepted, enrolled, and participating in an approved MUHC medical residency program as required to become certified by the appropriate specialty board. *(based on CMS Guidelines for Teaching Physicians, Interns, and Residents and ACGME Glossary of Terms)*

## III. Process/Content

### a. Filing a Grievance:

1. A resident physician may initiate grievance action by filing a signed, written account of the grievance with the PD within ten (10) business days of the grieved event.
2. The PD and department chair have the discretion to discuss the grievance with the resident and other involved parties to attempt resolution of the grievance through informal resolution. The PD and department chair have a period of ten (10) business days following receipt of the written grievance to resolve the grievance.
3. If the grievance is resolved in this manner, the terms of resolution will be put in writing and signed by the PD and the resident.
4. If the grievance is not resolved through informal resolution, the PD shall respond to the grievance in writing within fifteen (15) business days of receipt of the written grievance.

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5. If the resident is uncomfortable in approaching the PD, the resident is encouraged to discuss the issue with the Manager in the Office of GME.

### **b. Hearing Process:**

1. Should the resident physician be dissatisfied with the response of the PD, the resident may, within five (5) business days of receipt of such response, submit a written appeal to the Senior Associate Dean for GME/DIO or their designee.
2. Upon receipt of the written appeal, a grievance hearing panel will be formed by the GME office. The panel will consist of one PD with three (3) years or greater experience, one associate PD, and one Housestaff Organization officer selected from the pool of available participants in each group.
3. No member of the panel may be from the involved training department(s) of any of the involved parties.
4. If a panel member selected is not able to participate because of prior commitments, another name will be selected.
5. The Associate DIO, or designee if there is a conflict, shall serve as the Hearing Panel Officer with no voting rights and will Chair the Hearing Panel.
6. The Hearing Panel Officer will notify the PD and the Resident of the identity of the members of the Hearing Panel as soon as reasonably possible.
7. The resident or the PD may object to a member of the Hearing Panel for cause within two (2) business days of notification of the members. The Hearing Panel Officer has sole discretion to replace a member if deemed warranted.
8. The Manager of GME shall serve as the recorder of the proceedings unless the Hearing Panel Officer designates an alternate.
9. The GME Office will schedule the appeal hearing. The GME Office will send a Hearing Notice to the resident and the PD. The Hearing Notice will contain the names of the Hearing Panel members, the date, time and location of the appeal hearing, and the deadline to submit position statements and evidence. Schedules permitting, the appeal hearing should occur within twenty (20) business days from the receipt of the resident's appeal request.
10. The resident and PD should receive at least ten (10) business days' notice of the hearing date. At least five (5) business days prior to the hearing, the resident shall identify and notify the Hearing Panel Officer if the resident elects to have an advisor present at the hearing.

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The resident may select whomever they wish to serve as their advisor, including an attorney. An advisor is not required, and a resident may elect to proceed without an advisor. The University is not required to provide a resident with an advisor, and an advisor's attendance is the resident's responsibility. The advisor may not make a presentation or represent the resident in the hearing. The resident is expected to ask and respond to questions on their own. The advisor may provide the resident consultation quietly, in writing, or during a break in the proceedings; however, the advisor may not speak on behalf of the resident. Advisors who do not follow these guidelines will be cautioned or dismissed from the proceeding.

11. If the resident has an attorney present as their advisor, the Hearing Panel and the PD may be accompanied at the appeal hearing by attorneys from The University of Missouri System Office of General Counsel.
12. Appeal hearings are confidential. Only participants, advisors, the recorder, and panel members may attend.
13. As the hearing is not a legal proceeding but an academic proceeding, the rules of evidence shall not apply.
14. At least five (5) business days prior to the appeal hearing, the resident and the PD shall submit a position statement and evidence to the GME Office Manager on behalf of the Hearing Panel. Submissions should contain a statement outlining the party's position, and all other documentation or evidence believed to be relevant to the appeal.
15. Should any of the parties be unable to meet the deadlines outlined above, parties may request an extension through the Hearing Panel Officer.
16. The Hearing Panel, in its sole discretion, may modify the time for the position statement and other evidence to be provided.
17. Failure to submit a position statement in the time and manner required may result in the material not being considered by the Hearing Panel.
18. Failure by the resident to meet the time limits for appeal may be deemed as withdrawal of the appeal.
19. The GME Manager will facilitate the exchange of position statements and evidence between the PD and resident and will provide copies of all relevant documentation to the Hearing Panel.

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20. The Hearing Panel Officer has discretion regarding what evidence is relevant.
- c. **Burden of Proof:** The resident has the burden to demonstrate, by a preponderance of evidence, that the grieved action violated University policy or law or was arbitrary and capricious. A preponderance of the evidence means it is more probable to be true than not. Arbitrary and capricious means there was no reasonable basis for the Program's decision to take the grieved action.
  1. Unless otherwise specified by the Hearing Panel Officer, the hearings will proceed according to the following format:
    - i. The PD may make a presentation to the Hearing Panel up to thirty (30) minutes.
    - ii. The resident may make a presentation to the Hearing Panel up to thirty (30) minutes.
    - iii. The PD will have up to twenty (20) minutes to respond to the statements made by the resident.
    - iv. The resident will have up to twenty (20) minutes to respond to the statements made by the program director.
    - v. Hearing Panel members may ask questions of the resident and/or the PD.
    - vi. Witnesses other than the PD and the resident will not be permitted to participate in the hearing unless called by the Hearing Panel. In the event the Hearing Panel elects to hear from additional witnesses, the PD and the resident may question those witnesses.
  2. Within five (5) business days of the Hearing, the Hearing Panel will provide a written copy of their recommendation to the Dean of the School of Medicine or his or her designee.
  3. In the event a decision is not reached within five (5) business days, the panel shall request an extension from the Dean of the School of Medicine or his or her designee.
  4. If the decision of the panel is not unanimous, the dissenting panel member may submit a written dissenting opinion at the same time.
  5. The Dean of the School of Medicine or his or her designee will respond in writing within five (5) business days of receipt of the panel's recommendation.
  6. The Dean of the School of Medicine or his or her designee may accept the recommendation, amend it, reverse it, or refer it back to the panel for reconsideration.
  7. The decision of the Dean of the School of Medicine or his or her designee is final. A written decision will be sent to the resident within five (5) business days. A copy of the decision will be provided to the PD.
  8. The Senior Associate Dean for GME/DIO and the PD in consultation with

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University counsel shall develop a report to be placed in the resident file regarding the final decision of the grievance. This summative report may be provided to future external parties who inquire as to the resident’s training or grievance resolution, provided the resident has authorized release.

## IV. Attachments

- a. [Graduate Medical Education - Disciplinary Policy](#)
- b. [Graduate Medical Education - Academic Deficiency Policy](#)
- c. [600.010 Equal Employment/Educational Opportunity and Nondiscrimination Policy](#)

## V. References, Regulatory References, Related Documents, or Links

- a. Table of Actions/Statements/Evidence and Timelines:

Actions/Statements/Evidence	Timeline
Resident may initiate a grievance with the PD	Signed, written account of the grievance submitted within 10 business days of grieved event
If not resolved within the Department, PD responds to grievance in writing.	Response within 15 business days of receipt of written grievance.
Written appeals must be submitted to the Senior Associate Dean for GME/DIO.	Received within 5 business days of response receipt
Hearing panel convened. Resident notified of panel members. Resident or PD may object to any member of hearing committee.	Objections must be filed within 2 business days of notification of hearing panel members
Hearing Officer schedules the appeal hearing.	Scheduled within 20 business day from receipt of the resident’s appeal.
GME Office sends notice of hearing to the resident and PD.	The resident and PD should receive at least 10 business days’ notice of the hearing date.
Resident to notify Hearing Office if an Advisor will be present during the Hearing.	Notification must occur 5 business days prior to the Hearing.
Resident & Program Director submit written statements & evidence	Submissions must be received at least 5 business days prior to date of Hearing.
The grievance panel will provide a written copy of their recommendation to the Dean of the School of Medicine or their designee.	Recommendation shall be received within 5 business days of the Hearing date
The Dean or designee will respond in writing	The response shall be provided within 5 business days of receipt of the panel’s recommendation.
A written decision will be sent to the resident. A copy of the decision will be provided to the PD.	The decision will be sent within 5 business days.

\* In the case of grievance of a termination/dismissal, the resident shall have no clinical duties during the grievance process. During the grievance process, the resident shall continue to perform non-clinical duties as assigned by the PD. The resident will receive salary and insurance benefits during the appeals process up to the end date of the resident’s contract.