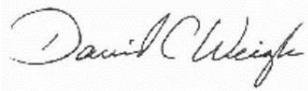


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**Policy Title:** Grievance and Due Process for Graduate Medical Education Trainees



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**Next Revision Date:** April 2022

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## **PURPOSE**

To set forth a fair, reasonable, and readily accessible policy and procedure for residents to resolve general grievances and appeal Corrective Actions.

## **SCOPE**

This policy and procedure apply to all Graduate Medical Education (GME) training programs at UT Southwestern and all residents training in those programs. For purposes of this policy and procedure, a "resident" means any physician in any GME program at UT Southwestern, including interns, residents, fellows and subspecialty residents.

## **POLICY**

All GME programs at UT Southwestern will promote fair, reasonable, efficient and equitable resolutions for general grievances that may arise in the course of residency training. Residents who receive Corrective Action pursuant to the Academic Improvement and Corrective Action Policy will be permitted to appeal in accordance with the due process procedure outlined herein.

This policy and procedure do not apply to complaints related to sex discrimination, including sexual misconduct, harassment, or violence. Residents with concerns about sex discrimination are encouraged to seek assistance from the Title IX Coordinator or a Deputy Title IX Coordinator. Any resident who believes that he or she has been subjected to sex discrimination is urged to immediately submit a request to invoke the informal resolution process or submit a formal complaint in accordance with [EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure](#).

This policy and procedure also do not apply to complaints related to discrimination on the basis of race, color, national origin, religion, age, protected veteran status, citizenship status, disability, sexual orientation, gender identity, or gender expression. Resident complaints about discrimination on the basis of a protected status other than sex will be handled in accordance with [ETH-151 Equal Opportunity](#).

## **PROCEDURE FOR BRINGING GENERAL GRIEVANCES**

A general grievance may be brought regarding any matter affecting the terms and conditions of a resident's training, except for academic or job performance, Corrective Action, or discrimination. Residents may pursue general grievances as follows:

- A. The resident should first attempt to resolve the grievance informally by consulting with the chief resident, senior fellow, appropriate faculty, or the program director.
- B. If the resident is unable to resolve the grievance informally, the resident may submit the grievance in writing to the Department Chairperson. The Department Chairperson will issue a written decision to the resident regarding the grievance within fourteen (14) business days.

- C. If the resident does not believe the grievance has been satisfactorily resolved, the resident may submit the grievance in writing to the Designated Institutional Official (DIO) within five (5) business days of receipt of the Department Chairperson's decision. The DIO (or appropriate designee) will issue a written decision to the resident regarding the grievance within fourteen (14) business days. The decision of the DIO is final and binding.

### **DUE PROCESS PROCEDURE FOR APPEALING CORRECTIVE ACTION**

A resident may appeal a Corrective Action received pursuant to the Academic Improvement and Correction Action Policy as follows:

#### **Initiating the Appeal**

- A. To initiate the appeal process, the resident must submit a written appeal to the GME Office ([gme@utsouthwestern.edu](mailto:gme@utsouthwestern.edu)) within five (5) business days of receipt of the Corrective Action being appealed. The resident's appeal should state the facts on which the appeal is based, the reason(s) the resident believes the Corrective Action was in error, and the remedy requested.
- B. The DIO will appoint an *ad hoc* review Panel to hear the resident's appeal. The Panel shall consist of one program director acting as chairperson and two additional faculty members. No Panel member will be from the resident's program.
- C. The Panel will schedule the appeal hearing and notify the GME Office of the hearing date. Schedules permitting, the appeal hearing should occur within thirty (30) calendar days from the Panel's receipt of the resident's appeal.
- D. The GME Office will send a Hearing Notice to the resident and the program director. The Hearing Notice will contain the names of the Panel members, the date, time and location of the appeal hearing, and the deadline to submit evidence. The resident should receive at least ten (10) business days' notice of the hearing date.

#### **Evidence**

- A. Any evidence the resident or the program director want the Panel to consider must be submitted to the GME Office at least five (5) business days prior to the appeal hearing. Submissions should contain any evidence (including witness statements and written, recorded, or electronic material) believed to be relevant to the appeal. Failure to submit evidence in the time and manner required by the GME Office may result in the material not being considered by the Panel.
- B. The GME Office will facilitate the exchange of evidence between the resident and the program director and will provide copies of all evidence to the Panel.

#### **Appeal Hearing**

- A. The Panel chairperson has wide discretion with respect to conducting the appeal hearing. In general, appeal hearings will proceed according to the following format:
  - i. The program director may make a presentation to the Panel up to twenty (20) minutes.
  - ii. The resident may make a presentation to the Panel up to twenty (20) minutes.
  - iii. The program director will have up to ten (10) minutes to respond to the statements made by the resident.
  - iv. The resident will have up to ten (10) minutes to respond to the statements made by the program director.
  - v. Panel members may ask questions of the resident and/or the program director.
- B. Witnesses other than the program director and the resident will not be permitted to participate in the appeal hearing unless called by the Panel. In the event the Panel elects to hear from additional witnesses, the program director and the resident may question those witnesses.

- C. The Panel and the program director shall be assisted during the appeal process and accompanied at the appeal hearing by attorneys from the UT Southwestern Office of the Vice President for Legal Affairs.
- D. The resident may be assisted during the appeal process and accompanied at the appeal hearing by an advisor of the resident's choosing, who may be an attorney at the resident's own expense.
- E. Advisors and attorneys may consult with the parties, but shall not actively participate in the appeal hearing.
- F. Appeal hearings are confidential. Only participants, advisors or attorneys, and Panel members may attend.

**Panel Deliberation and Decision**

- A. Following the appeal hearing, the Panel shall deliberate privately.
- B. The final decision will be made by a majority vote of the Panel members.
- C. The Panel will prepare a written decision setting forth its conclusions and its reasoning in support of those conclusions.
- D. The Panel's decision will be sent to the resident, the program director and the DIO within ten (10) business days after the hearing.

**Appeal to the Associate Dean**

- A. The resident may appeal the Panel's decision by submitting a written appeal to the Associate Dean for Graduate Medical Education within ten (10) business days of receipt of the Panel decision.
- B. The GME Office will provide the Associate Dean with a copy of all material related to the appeal, including all evidence considered by the Panel.
- C. The Associate Dean (or appropriate designee) will consider the resident's appeal and issue a written decision to the resident within ten (10) business days. The Dean will provide a copy of the decision to the DIO and the program director.
- D. The decision of the Associate Dean (or designee) is final and binding.

**Burden of Proof**

The appealing resident has the burden to demonstrate, by clear and convincing evidence, that the Corrective Action issued by the program was arbitrary and capricious. "Clear and convincing evidence" means the evidence presented by the resident is highly and substantially more probable to be true than not. "Arbitrary and capricious" means there was no reasonable basis for the Program's decision to take the Corrective Action.

**Time Limits**

Time limits set forth in this procedure must be adhered to by both the resident and UT Southwestern unless extended for good cause at the discretion of the DIO. A resident who fails to meet the time limits for appealing Corrective Action may be deemed to have withdrawn the appeal.