

Policy Name:	Assessment, promotion, discipline and dismissal of residents in graduate medical education programs				
Approval Authority:	Graduate Medical Education Committee	Adopted:	June 14, 2022	Reviewed:	6/14/2022
Responsible Office:	GME Office	Contact:	gmeadmin@vcuhealth.org , (804)828-9783		

1. Policy Statement:

This policy and procedure describes the assessment, promotion, discipline, dismissal, and appeals process for VCU Health System residents and fellows. The responsibility for judging the competence of trainees in graduate medical education (GME) programs rests with the program’s faculty, Clinical Competency Committee (CCC), and program director. A training program’s structure, curricula, and assessment framework are guided by the applicable accrediting bodies, (e.g. Accreditation Council for Graduate Medical Education, Council on Dental Accreditation), certifying and licensing boards, as well as professional ethical standards, the Virginia Board of Medicine, and the applicable policies of the Virginia Commonwealth University (VCU) Health System and Virginia Commonwealth University. Residents and fellows are Virginia Commonwealth University Health System (VCUHS) employees, and the employment relationship of trainees with VCUHS is derivative of and dependent upon the trainee’s continued enrollment in a GME training program in good standing.

2. Reason for Policy

This policy governs the qualification of residents to remain in training as well as their completion of residency certification requirements, and its provisions apply in all instances in which such qualification and/or certification is at issue.

3. Who Should Read This Policy

Residency and Fellowship Program Directors, Program Coordinators and Trainees.

4. The Policy

a. Evaluations and Performance Reviews

- i. **Evaluation and Feedback:** Each program must have a fair and effective evaluation system based on the goals and objectives of the program. ACGME accredited programs must ensure that evaluations assess all six competencies (Patient Care, Medical Knowledge, Interpersonal and Communication Skills, Professionalism, Practice Based Learning, and Systems Based Practice) and their sub-competencies.
 1. A written (or electronic) evaluation of trainees (i.e. residents and fellows) must be completed at the end of each rotation or assignment and no less frequently than once every three months for assignments of longer duration.
 2. Programs must use multiple evaluators. Evaluators must include faculty and the self and should also represent different roles of the health care team such as other residents/fellows, nurses, other members of the health care team, and patients.
 3. Supervising faculty must provide regular, formative and summative feedback, preferably face-to-face, during and at the end of each rotation or

assignment.

ii. Performance Reviews

1. The program director or designee must meet with each trainee twice per year (semi-annually) to review the evaluations and milestone progress (as assessed by the CCC). The program director must document semi-annual meetings in writing (or electronically). The end of year performance review must include an assessment stating whether or not the resident/fellow has met expectations for the level of training and whether the resident will be promoted or graduate, as applicable, at the end of the training year.

iii. Performance Determinations

The program director has final responsibility for monitoring the competence and professionalism of program trainees for determining promotion, graduation, and certification decisions, and for initial counseling, probation, remediation, corrective, and adverse actions. These determinations shall be made based on the input of a committee of the faculty, typically a Clinical Competency Committee (CCC). Each program must have a Clinical Competency Committee (CCC). The CCC reviews all resident/fellow evaluations at least semi-annually; determines each trainee's progress on achievement of milestones; provides recommendations to the program director regarding the CCC's assessment of the trainee's progress; and makes recommendations regarding promotion, graduation, remediation, probation, non-renewal of contract, and termination decisions.

iv. Final Summative Evaluation (Verification of Graduate Medical Education)

1. Program directors must complete a final summative evaluation, also known as the Verification of Graduate Medical Education Training, for all residents and fellows when they leave a program, including both for those individuals that successfully complete the program as well as for those who leave the program before successful completion (e.g. due to resignation, non-renewal of contract, or termination).
2. The final summative evaluation (Verification of Graduate Medical Education) form must provide an assessment of the resident/fellow's performance during the final period of education. For ACGME accredited programs, the summary assessment should be based on the six competencies. The evaluation should also include a list of all rotations and procedure log or assessment of procedural competence (if applicable). For trainees who successfully complete the program, the final summative evaluation must include a statement attesting that the trainee has the knowledge, skills, and behaviors necessary to enter autonomous practice in the specialty in which they were trained. For trainees who did not successfully complete the program, no statement should be included regarding the individual's ability to enter into autonomous practice.
3. This summative evaluation must be signed and dated by the program director (or associate program director or department chair if the program director is not available) and must be shared with the trainee.
4. The final evaluation must become part of the trainee's permanent record maintained by the program and institution in accordance with the GME

document retention policy and accessible for review by the resident/fellow.

b. Promotion

- i. Each program must determine criteria and have written guidelines for promotion and renewal of appointment.
- ii. The CCC assesses resident/fellow progress and provides recommendations to the program director at the end of each academic year (or end of contract year for off-cycle residents) regarding promotion, graduation, or corrective actions (i.e., letter of concern, probation, decision not to promote, non-renewal of contract, or dismissal).
- iii. The program director has final decision-making authority regarding promotion, graduation, and corrective actions.
- iv. Except for combined program positions, no trainee may remain at the same level of training for more than 24 months. Trainees in combined programs may not remain at the same level of training for more than 36 months.
- v. USMLE and COMLEX Step 3 Examinations
 1. Promotion to the PGY-3 level requires that the trainee must pass the USMLE or COMLEX step 3 examination
 - a. If a trainee has not shown successful completion of one of these exams prior to December 31 of the PGY-2 year, the trainee will receive a warning at his/her semi-annual assessment documenting the potential consequences of not completing this requirement within the next 6 months.
 - b. If a trainee has not passed USMLE Step 3 or COMLEX Level 3 by July 1 of the PGY-3 year they will be placed on probation.
 - c. If documentation of successful completion of this exam is not provided within 3 months of the probation start date the trainee may be dismissed, placed on continuing probation, or unpaid leave of absence; depending on the circumstances.
 - d. A resident who is on probation due to failure of passing the USMLE step 3 or COMLEX level 3 examinations will be paid at the PGY-2 level during the probationary period.

c. Due Process, Corrective Actions, Discipline, Dismissal, and Appeal Process

i. Due Process

Due process refers to the safeguards and procedures in place to ensure a fair process. The institution and programs shall ensure that due process is provided to all trainees subject to corrective actions, discipline, or dismissal.

1. Due Process for academic deficiency requires:
 - a. Notice of the performance deficiency
 - b. An opportunity to cure deficiency
 - c. A reasonable decision-making process
2. Due Process for non-academic deficiency requires:
 - a. Notice of the performance deficiency
 - b. An opportunity (for the trainee) to respond to the notice of deficiency
 - c. A reasonable decision-making process

ii. Corrective Actions

Corrective and disciplinary actions are taken to address deficiencies in trainee performance which are serious or have not been able to be managed through informal coaching and feedback. Corrective actions are made by the program director in consultation with the Clinical Competency Committee.

1. Letter of Concern (non-reportable and cannot be appealed)

- a. A letter of concern should note the area(s) of expectation not being met (academic or non-academic) and should include a remediation plan.
- b. The program director or designee should meet with the trainee, preferably in person, informing the resident/fellow of the concerns and remediation plan
- c. A copy of the letter is given to the trainee along with a copy that is maintained in the resident's/fellow's academic file.
- d. This level of corrective action does not need to be reported to the GME office and there is no option for appeal through the GME appeals pathway.

2. Probation

- a. Probation may be initiated in two instances:
 - i. When the specific expectations and plan of remediation noted in a letter of concern is not successfully completed by the trainee
 - ii. When a clinical deficiency or behavior in question is sufficiently severe, in the absence of a prior letter of concern.
- b. Intent to place a trainee on probation must be reported to the Graduate Medical Education Office with proposed documentation to be reviewed by the Designated Institutional Official (DIO) before issuing to the trainee.
- c. The trainee must be informed in person of probation decision and must be provided with a document that includes the following:
 - i. A statement of the grounds for probation, including any identified deficiency
 - ii. Improvement(s) that must be achieved during the probation period
 - iii. The duration of probation (typically at 3-6 months)
 - iv. An identified mentor/coach during the probation period
 - v. A remediation plan
 - vi. Notice that failure to meet the conditions of probation could result in extended probation, non-promotion with additional training time, non-renewal of contract, or termination.

3. Extended Probation

- a. If at the end of the initial period of probation, the trainee's performance or behavior remains unsatisfactory, probation either may be extended in accordance with the above guidelines or the

resident/fellow may be suspended or dismissed from the program.

4. Delay of Promotion, Graduation, or Completion of a PGY Level
 - a. Delay of promotion, graduation, or completion of a PGY level may occur when a trainee needs additional time to correct deficiencies identified during remediation, to demonstrate correction of professionalism issues, or otherwise fails to meet promotion criteria but is demonstrating sufficient progress where it is believed that additional time will allow the resident/fellow to meet the expected level of performance.

iii. Discipline, Suspension, and Dismissal

1. Summary suspension

- a. Summary suspension is the immediate removal of a resident/fellow from program activities without prior notice. The action may be imposed by the Program Director, Department Chair, DIO, or VCUHS Chief Medical Officer (CMO).
- b. This action may be taken in any situation in which continuation of clinical activities by the resident/fellow is deemed potentially detrimental or threatening to patient safety or the quality of patient care or to permit investigation or resolution of any situation.
- c. Residents and fellows may not perform clinical activities outside of the program (i.e. moonlighting) during a suspension
- d. When summary suspension is initiated, the resident must be informed in person and in writing of the decision to initiate suspension, the action(s) that precipitated the decision, whether or not the trainee will be paid during this period, and what the resident/fellow may and may not do while on suspension (e.g. participating in educational conferences). A decision involving suspension of clinical activities of a resident must be reviewed within three working days by the program director, department chair, and DIO to determine if the resident may return to clinical activities, and/or whether further actions is warranted (including, but not limited to, counseling, probation, fitness for duty evaluation, continued suspension, or summary dismissal).
- e. The official imposing the suspension must provide the resident/fellow the opportunity to respond to the suspension.

2. Dismissal

- a. Dismissal During or at the Conclusion of Probation:
 - i. Probationary status in a residency program constitutes notification to the resident that dismissal from the program can occur at any time (i.e., during or at the conclusion of probation).
 - ii. Dismissal prior to the conclusion of a probationary period may occur if conduct, which gave rise to probation, is repeated or if grounds for summary dismissal exist.

- iii. Dismissal at the end of a probationary period may occur if the resident's performance remains unsatisfactory or for any of the foregoing reasons.
 - iv. The GME office must be notified prior to the dismissal of any resident during or at the conclusion of a probationary period.
 - b. Dismissal Without Prior Corrective Action
 - i. A trainee may be terminated without prior corrective action (i.e. letter of concern or probation) for serious acts of incompetence, conduct that jeopardizes patient safety or the quality of patient care, revocation of the trainee's medical/dental license or prescriptive authority, impairment, misconduct, behaviors that are disruptive to hospital or program operations, violation of VCU Health System policy, or other serious unprofessional behaviors as determined by the Department Chair, Program Director, DIO, or VCU Health System Chief Medical Officer.
 - ii. Prior to termination, the trainee shall be suspended in order to allow for a full investigation, assurance of due process, and the appeals process
 - iii. The trainee must be notified in writing of the reason for dismissal and have the opportunity respond to the action through the appeals process
 - c. Non-renewal of Contract
 - i. A program director, in consultation with the Clinical Competency Committee, may choose to not renew a trainee's contract, for cause, due to academic or non-academic reasons. Typically, this occurs when a trainee on probation fails to make sufficient progress during the remediation period.
 - ii. A program must provide written notice of intent not to renew a resident's/fellow's contract with as much advance notice as possible. This should be no later than three months prior to the end of the current contract. If the primary reason(s) for the non-renewal occurs within the three months prior to the end of the agreement, the resident/fellow must be provided written notice of the intent not to renew within as much time as the circumstances will reasonably allow, prior to the end of the agreement.
- iv. Appeal Process

A resident/fellow has the right to appeal the following adverse actions: probation, decision not to promote or renew an appointment (contract), suspension, or dismissal as follows:

 - 1. Department Appeal
 - a. A resident may initiate a departmental appeal by submitting a written notice of appeal to the program director (with a copy to the

DIO) within ten (10) working days of the date of the appealable action (hereinafter 'adverse action').

- b. A faculty committee (review committee), typically the Clinical Competency Committee (CCC), will hear the department review, which ordinarily will be the same faculty committee, which initiated the adverse action.
 - c. The faculty committee review hearing will be held within twenty (20) working days following receipt of the notice of appeal.
 - d. The resident/fellow may select a faculty advocate to appear and participate on the resident's behalf at the hearing. It is the responsibility of the resident to secure the participation of the faculty advisor.
 - e. Prior to the hearing, the resident must notify the program director of the number of witnesses (if any) the resident expects to call and whether a faculty advocate will accompany the resident.
 - f. At the departmental review hearing, the program director (or his or her designee) will present a statement in support of the adverse action and may present any relevant records, witnesses, or other evidence.
 - g. The trainee should be provided the opportunity to examine the evidence used to make the corrective action or disciplinary decision.
 - h. The resident/fellow will have the right to present evidence, call and question witnesses, and make statements in defense of his or her own position.
 - i. Legal counsel may be present on behalf of the resident and the department but will not be permitted to participate in the proceeding.
 - j. A written record of the hearing will be created by a stenographer
 - k. After presentation of evidence and arguments by both sides, the review committee will meet in closed session to consider the adverse action.
 - l. On a majority vote, the review committee may uphold or reject the adverse action or may impose alternative action.
 - m. The committee's written decision must be submitted to the resident/fellow within ten (10) working dates of the close of the hearing.
 - n. A copy of the written decision will be placed in the resident's file and a copy sent to Senior Associate Dean for Graduate Medical Education (GME)/DIO.
2. Appeal to the Senior Associate Dean for Graduate Medical Education/DIO:
- a. The Senior Associate Dean for GME/Designated Institutional Official (DIO), in their discretion, may elect to review any decision of a review committee.
 - b. If the adverse action is upheld by the review committee, or if the committee recommends alternative action that still is not acceptable to the resident/fellow, the trainee may appeal the review committee's decision by submitting a notice of appeal to the

Senior Associate Dean for GME/DIO within ten (10) working days of the review committee's decision.

- c. A written appeal must be delivered to the Senior Associate Dean for GME/DIO within ten (10) working days of receipt of the notification of the action of the review committee. The resident/fellow must state as clearly and as fully as possible the reasons for seeking modification of the decision.
- d. The Senior Associate Dean will review the resident's/fellow's training file, evidence presented during the departmental appeals hearing, and any other relevant materials and will interview the resident/fellow. The Senior Associate Dean will allow the resident to review all of the materials that are reviewed by the Senior Associate Dean.
- e. The Senior Associate Dean's responsibilities are to:
 - i. Review whether due process as described above was followed
 - ii. Determine whether applicable university, program, department, GME, and/or health system policies were fairly and appropriately applied
 - iii. Determine whether there is sufficient evidence to support the adverse action or other action recommended by departmental appeals committee.
- f. Possible outcomes by the Senior Associate Dean:
 - i. Uphold or reject the adverse action.
 - ii. Uphold or reject other action recommended by the departmental appeals committee.
 - iii. Recommend to the program director and department chair that another course of action be pursued to include return of the case to the review committee for further consideration.
- g. The Senior Associate Dean's decision will be submitted to the resident within thirty (30) working days of the notice of appeal.
- h. A copy of the written decision will be placed in the resident's file and copy will be sent to the Program Director.

3. Appeal to the Dean:

- a. Either the trainee or Program Director, within ten (10) working days of the decision by the Senior Associate Dean for GME/DIO, may appeal the decision of the Senior Associate Dean for GME/DIO to the Dean of the VCU School of Medicine or VCU School of Dentistry (or their respective designee), as applicable, by written notice to the GME Office.
- b. The GME Office will notify the Dean (or designee) who will appoint an Appeals Committee composed of at least three faculty members from departments other than the resident's department.
- c. The Appeals Committee hearing will be held within twenty (20) working days following receipt of the notice of appeal.

- d. The resident/fellow may select a faculty advocate to appear and participate on the resident's behalf at the hearing. It is the responsibility of the resident to secure the participation of the faculty advisor.
- e. At the appeals review hearing, the Program Director (or his or her designee) will present a statement in support of the adverse action and may present any relevant records or other evidence.
- f. The trainee should be provided the opportunity to examine the evidence used to make the corrective action or disciplinary decision.
- g. The resident/fellow will have the right to present evidence and make statements in defense of his or her own position.
- h. The Appeals Committee may request witnesses. If witnesses are called to the hearing, then both the Program Director (or designee) and trainee shall have the opportunity to question the witness(es)
- i. Legal counsel may be present on behalf of the trainee and the Dean, but will not be permitted to participate in the proceeding.
- j. A written record of the hearing will be created by a stenographer
- k. After presentation of evidence and arguments by both sides, the Appeals Committee will meet in closed session to consider the adverse action. The Appeals Committee will submit a written recommendation regarding the matter to the Dean within fifteen (15) working days of the closure of the Committee's review.
- l. The Dean will review the recommendation of the Appeals Committee and accept or reject it within ten (10) working days.
- m. The Dean's decision is final within the Virginia Commonwealth University and Virginia Commonwealth University Health System
- n. A copy of the written decision will be placed in the resident's file.

v. Other Considerations

- 1. External rules, regulations, or laws govern mandatory reporting of problematic behavior or performance to licensing agencies and professional boards.
- 2. The fact that such a report is made is not a matter which may give rise to the appeal process. Only the adverse actions specified in section 4.iii are the proper subjects of appeal.
- 3. Where mandatory reporting of problematic behavior or performance occurs, external agencies will be notified of the status of any internal appeal regarding the matter reported and its outcome.
- 4. Residents should be aware that participation in the GME Appeals Process does not preclude investigation or action on the part of external entities.