



<b>Tufts Medical Center -(GME)</b>	<b>Subject:</b> <b>Discipline and Dismissal of House Officers and Appeal Process</b>	<b>File Under:</b> Policy # GME 102
<b>Issuing Department:</b> Graduate Medical Education		<b>Latest Revision Date:</b> June 29, 2009
<b>Original Procedure Date:</b> April 2, 2001	<b>Page 1 of 10</b>	<b>Approved By:</b> Designated Institutional Official Chair, GMEC Director, GME

**INTRODUCTION:**

It is the responsibility of each Program Director to implement the following written procedures for the discipline and dismissal of House Officers appointed to a Hospital GME Program. These procedures are in addition to any other procedures governing a GME Institution’s responsibilities regarding counseling and discipline of residents, as set forth in the Accreditation Council for Graduate Medical Education’s (“ACGME”) Essentials of Accredited Residencies in Graduate Medical Education: Institutional and Program Requirements. These procedures are applicable to all House Officers enrolled in the Hospital’s graduate medical education programs.

The term “House Officers” shall include physicians, or other graduates of a doctoral program who are enrolled in a Hospital-sponsored training program as interns, residents or fellows (hereinafter “Trainees”). Although Trainees also may be appointed to the Medical Staff and/or may be employed by the Hospital, the procedures described below, and not the review and appeal procedures described in the Medical Staff Bylaws for other Medical Staff members or the grievance or similar procedures afforded to Hospital employees through the Hospital’s Human Resource Department, constitute the exclusive process by which adverse action affecting a Trainee’s program appointment will be reviewed.

**PROCEDURES PRIOR TO INITIATING DISCIPLINARY ACTION:**

- A. Program Directors are encouraged to use the procedures set forth in the Policy for Evaluation, Advancement, and Remediation of House Officers to address and resolve minor instances of unsatisfactory performance or misconduct prior to initiating the disciplinary actions set forth below.
  
- B. Independent Evaluation. If an evaluation of the Trainee's performance by the Program Director suggests a situation (such as, but not limited to: medical/mental health, behavioral and/or substance abuse problems) in which the Trainee exhibits behaviors that suggests an impairment, the Program Director may require an independent evaluation to determine the Trainee's ability to perform his/her clinical duties and responsibilities. This independent evaluation may be required on its own or in addition to other remedial or disciplinary actions.

**DISCIPLINARY ACTION:**

- A. Where remedial efforts are unsuccessful and/or where performance or misconduct is of a serious nature, the Program Director shall initiate disciplinary action. Disciplinary action may be taken for reasons including but not limited to any of the following:
  - 1. failure to satisfy the academic or clinical requirements of the training program, including any remedial training program;
  - 2. professional incompetence, misconduct or conduct that might be inconsistent with or harmful to patient care or safety;
  - 3. consistently substandard performance;
  - 4. conduct which calls into question the professional qualifications, ethics, or judgment of the Trainee;
  - 5. failure to function in a cooperative and reasonable manner with other Trainees, employees, medical staff, patients, volunteers and/or visitors of the Hospital;
  - 6. violation of the bylaws, rules, regulations, policies, or procedures of the medical staff, Hospital, or applicable department, division or training program, including, without limitation, any violation of the Hospital's sexual harassment policy; or
  - 7. scientific misconduct.

B. Specific Procedures

Disciplinary action includes probation, suspension, or termination of the Trainee from the training program or non-renewal of the Trainee's appointment. Except under circumstances requiring an immediate disciplinary action to preserve acceptable standards of care, safety, integrity or ethics at the Hospital, the following procedures will be followed. Among the factors to be considered in determining the action(s) to be taken are: the severity and frequency of the offense, documented history of prior remediation or disciplinary action, and the Trainee's overall performance and conduct.

**PROBATION:**

A. General

1. A Trainee may be placed on probation following either repeated incidents of deficient performance or inappropriate conduct of a minor nature or following a single incident of deficient performance or inappropriate conduct of a serious nature.
2. The Program Director shall have authority to place the Trainee on probation and to determine the terms of the probation.
3. Probation means a temporary modification of the Trainee's training program participation or responsibilities, designed to facilitate the Trainee's accomplishment of program requirements. Probation may include, but is not limited to, special requirements or alterations in scheduling a Trainee's responsibilities, increased supervision, and/or a restriction, reduction or limitation in clinical or administrative responsibilities.
4. The Program Director shall notify the Trainee in writing of the decision to place the Trainee on probation, the reasons for the decision, the required method and timetable for correction, and the date upon which the decision will be reevaluated.
5. During the probationary period, the Program Director shall review the Trainee's performance at regular intervals. At the completion of the probationary period, a written summary will be completed by the Program Director and maintained in the Trainee's Program File.

B. Reconsideration of Probation Decision

1. The Trainee may request reconsideration of the probation decision no later than five (5) business days following written notification of the decision. The Program Director will meet with the Trainee and afford the Trainee an opportunity to provide any information which he/she believes should be considered in connection with this decision and any written comments for inclusion in the Program File. After this meeting, the Program Director, following consultation with other faculty, will render a final decision.
2. Failure to make a timely request for reconsideration will be considered a waiver of the Trainee's right to reconsideration.
3. There is no appeal from a final decision to place a Trainee on probation.

**SUSPENSION:**

A. General

1. The Program Director may temporarily suspend the Trainee from training program duties by placing him or her on an involuntary leave of absence for seriously deficient performance or seriously inappropriate conduct.
2. The Program Director shall notify the Trainee in writing of the decision to suspend the Trainee, including the reasons for the suspension, the required method and timetable for correction, and a date, if any, upon which the decision will be re-evaluated. The written notification shall also advise the Trainee of his or her right to request an appeal of the suspension decision in accordance with the procedures outlined below. This notice should precede the effective date of the suspension.
3. In circumstances where the Program Director determines that immediate disciplinary action is required to preserve acceptable standards of care, safety, integrity or ethics at the Hospital, a Trainee may be suspended effective immediately. In such situations involving immediate suspension, the Program Director shall provide written notification within three (3) business days following suspension.

B. Appeal of Suspension

1. The Trainee shall have the right to appeal the suspension decision. The appeal request must be submitted in writing to the Program Director within five (5) business days following written notification of the suspension decision.
2. Failure to make a timely request for a review will be considered a waiver of the Trainee's right to appeal.
3. If the Trainee appeals the suspension decision, the Program Director and two faculty members from the department ("Departmental Faculty Review Committee") shall meet with the Trainee within five (5) business days following receipt of the Trainee's written request for review, and afford the Trainee an opportunity to provide any information which he/she believes should be considered in connection with this decision. Within five (5) business days following this meeting, the Departmental Faculty Review Committee will render a decision. In making the decision, the Departmental Faculty Review Committee shall consider all available information including evaluations, faculty recommendations, any material supplied by the Trainee, and any other information relevant to the decision.
4. There is no further appeal from a decision to suspend a Trainee.

**TERMINATION OR NON-RENEWAL OF APPOINTMENT:**

A. General

1. If a Program Director determines that a Trainee should be terminated from the program or does not renew the Trainee's appointment (referred to as "termination" or "terminate"), the Trainee shall receive written notification of this decision.
2. In situations where the termination does not relate to the Trainee's competence to practice medicine or to a complaint or allegation regarding any violation of law, regulation, or policy of the Hospital, the Program Director may afford the Trainee an opportunity to voluntarily tender his or her resignation within 72 hours after written notice of the decision.
3. If the Trainee does not submit his or her resignation, or in situations where the Program Director has not afforded the

Trainee an opportunity to resign voluntarily, the Program Director shall notify the Trainee in writing of the termination decision and the Trainee's right to have this decision reviewed by a faculty committee comprised of faculty from departments other than the Trainee's own department.

B. Appeal of Termination or Non-Renewal of Appointment

1. The Trainee must indicate, in writing, that he/she wishes to exercise the right to appeal within five (5) business days following written notification of the termination or non-renewal decision.
2. Failure to make a timely request for an appeal will be considered a waiver of the Trainee's right to an appeal.
3. The Faculty Review Committee will be comprised of three (3) faculty members from other departments. The Faculty Review Committee will be selected as follows: the President of the Hospital and the Chairman of the Medical Board shall select four (4) faculty members from departments other than the Trainee's own department. The Trainee shall be notified in writing of the Faculty Review Committee's composition and will be given an opportunity to select three (3) of the four (4) faculty members to conduct the faculty review hearing. If the Trainee does not exercise this selection opportunity, the President and the Chairman of the Medical Board will make the selection.
4. The hearing will be conducted according to the procedures set out in Appendix A.
5. At the hearing the Trainee will be permitted to present to the Faculty Review Committee any information or material which the Trainee considers pertinent to the inquiry including any statements which the Trainee may wish to make, any written or other documentary material which the Trainee may wish to offer, and the statements of any individuals whom the Trainee may wish to present.
6. Neither the Trainee, the Program Director, nor the Faculty Review Committee may have counsel present at any of the hearings. All the hearing proceedings will be recorded by a stenographer and transcribed, and copies thereof shall be made available to the Trainee at the Trainee's request and expense.

7. The Faculty Review Committee shall document and present its findings to the President of the Hospital. The President shall review and consider the findings of the Faculty Review Committee and make a final decision regarding the Trainee's status within three (3) business days following receipt of the Faculty Review Committee's findings.
8. The Trainee shall receive written notification of the President's decision. There is no further appeal from the President's decision.

### **REPORTING TO THE BOARD OF REGISTRATION IN MEDICINE<sup>1</sup>:**

Massachusetts law requires Massachusetts hospitals to report to the Board of Registration in Medicine ("Board") all physician disciplinary actions within thirty (30) days of their initiation. Disciplinary actions, e.g., probation, suspension, termination, non-renewal of appointment, resignation or withdrawal of an application, are reportable if they relate directly or indirectly to the physician's competence to practice medicine or to a complaint or allegation regarding any violation of law, regulation, or bylaws of a health care facility, medical staff, group practice or professional medical association. Other actions, e.g., censure, written reprimands, fines, or imposition of public service are also reportable to the Board regardless of whether they are related to the physician's competence to practice medicine.

Action based on a failure to complete medical records in a timely fashion is not reportable to the Board unless it relates directly or indirectly to the physician's competence to practice medicine or to a complaint or allegation regarding any violation of law, regulation, or bylaws of a health care facility, medical staff, group practice or professional medical association.

The Director of Risk Management, in consultation with the Program Director and Office of General Counsel, will submit reports of disciplinary action to the Board. The Trainee who is the subject of the report will be notified of the submission of the report.

In the event the Hospital ceases to serve as the designated facility for a Trainee's Limited License, the Program Director, in consultation with the GME Office, will so notify the Board.

### **RESPONSIBILITY OF:**

Graduate Medical Education

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<sup>1</sup> See Massachusetts General Laws Chapter 111, §53B; 243 CMR §3.02.

**Author:**

Members of the Graduate  
Medical Education Committee

**Date:**

April 2, 2001

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August 18, 2008  
June 29, 2009

**Approval:**

Designated Institutional Official

June 29, 2009

Chair, GMEC

June 29, 2009

Director, GME

June 29, 2009

**Appendix A**  
*Appeal Hearing Procedures*

1. Faculty Review Committee. The Faculty Review Committee shall be comprised of three members of the Tufts University School of Medicine faculty chosen by the Trainee from a list of four Tufts faculty chosen by the President of Tufts-New England Medical Center Hospitals, Inc. ("T-NEMC") and the Chairperson of the Medical Board. The Faculty Review Committee shall designate a member of the committee as Chair to preside at the hearing.
2. Attendance at the Hearing. The Faculty Review Committee, the involved Trainee, the involved Program Director, Chair of the affected department, witnesses, and a T-NEMC administration representative(s) shall be present at the hearing.
3. Conduct of Hearing. The Hearing shall be conducted in accordance with the procedures set out in below. The hearing shall be no longer than four hours with the Trainee and the Program Director afforded equal time to present information to support their respective positions. At the sole discretion of the Chair, additional time may be granted.
4. Faculty Review Committee Chair's Role. The Chair shall preside at the hearing, shall decide all questions of order and procedure during the hearing, shall ensure that all participants in the hearing have a reasonable opportunity to present pertinent information to the inquiry, and shall maintain decorum.
5. Legal Counsel. Neither the Trainee, Program Director, nor the Faculty Review Committee may have counsel present at the hearing. However, the Trainee, the Program Director, the Department Chair and the Faculty Review Committee may confer with legal counsel as necessary.
6. Documentation; Witnesses. At least five (5) business days prior to the hearing, the Trainee and the Program Director shall provide each other and the Faculty Review Committee with any documents or materials that may be relevant to the inquiry and the names of any witnesses that may provide statements at the hearing.
7. Hearing Procedure. The general order of the hearing shall be as follows:
  - a. The Hearing shall be stenographically recorded and transcribed and copies thereof shall be made available to the Trainee at the Trainee's request and expense.
  - b. Witnesses shall not be placed under oath.

- c. The Program Director will be permitted to make an opening statement either orally or in writing. The duration or length of such opening statement shall be at the discretion of the Chair.
  - d. The Trainee will be permitted to make an opening statement either orally or in writing. The duration or length of such opening statement shall be at the discretion of the Chair.
  - e. The Program Director will be permitted to present to the Committee any information or material which the Program Director considers pertinent to the inquiry, including any statements which the Program Director may wish to make, any written or other documentary material which the Program Director may wish to offer, and the statements of any individuals whom the Program Director may wish to present. Faculty Review Committee members shall be permitted to question the Program Director and the Program Director's witnesses.
  - f. The Trainee will be permitted to present to the Committee any information or material which the Trainee considers pertinent to the inquiry, including any statements which the Trainee may wish to make, any written or other documentary material which the Trainee may wish to offer, and the statements of any individuals whom the Trainee may wish to present. The Faculty Review Committee members shall be permitted to question the Trainee and the Trainee's witnesses.
  - g. Neither the Trainee nor the Program Director shall be permitted to directly question the other party or the other party's witnesses.
  - h. At the conclusion of the Program Director's presentation, the Program Director and then the Trainee shall be permitted to make concluding remarks either verbally or in writing.
8. The Faculty Review Committee shall deliberate and shall document and present its findings to the President of the Hospital.
  9. The President shall review and consider the findings of the Faculty Review Committee and make a final decision regarding the Trainee's status within three (3) business days following receipt of the Faculty Review Committee's findings.
  10. The President shall provide the Trainee with written notification of the President's decision.
  11. There shall be no appeal from the President's decision.