

## **Due Process and Appeals Policy for Graduate Medical Education at Lexington Medical Center**

### **Purpose:**

The purpose of this policy is to define the due process procedure for appealing corrective actions that occur in all ACGME-accredited training programs at Lexington Medical Center.

### **Scope:**

This policy applies to all residents, fellows, and program personnel involved in any ACGME accredited programs under the sponsorship of Lexington Medical Center.

### **Policy:**

1. As the Sponsoring Institution, Lexington Medical Center has a policy in place that provides residents/fellows with due process relating to the following actions regardless of when the action is taken during the appointment period:
  - a. Suspension
  - b. Non-renewal of contract
  - c. Non-promotion or delay of advancement
  - d. Dismissal from the training program
2. Lexington Medical Center will ensure that all residents/fellows are provided with appropriate clarification in terms of any corrective action recommended by a program.
3. Any and all corrective actions initiated by a residency/fellowship program will be presented to the Designated Institutional Official (DIO) with supporting documentation regarding the action resulting in the corrective action.
4. Due process aims to ensure that any issues that arise which may have an adverse effect on residents/fellows are documented and reviewed by an unbiased party before any corrective actions take place. Documentation and review also allow an opportunity for further review in the event of an appeal.

### **Procedures:**

#### **Invoking Corrective Action**

1. The Program Director or Clinical Competency Committee (CCC) may recommend any of the previously mentioned corrective actions for a resident/fellow, in accordance with the specified timeline and criteria in the Resident Promotion and Non-Renewal Policy for GME at Lexington Medical Center.
  - a. In order to submit a recommendation for corrective action, the Program Director or CCC will provide sufficient documentation supporting the decision.
2. Before a corrective action is approved, the DIO will review the decision and whether or not it is supported by sufficient evidence.
  - a. If the DIO determines that the information is sufficient, the resident/fellow will be informed of the corrective action and its date of effect. The resident/fellow will be provided

with the appropriate documentation that supports the corrective action decision, as well as information related to their right to due process. If the issue is relating to quality or patient safety concerns, the resident/fellow may be placed on administrative leave during the corrective action process until it is either finalized or dismissed.

- b. If the DIO determines that the claim is not sufficiently supported, the Program Director or CCC will present additional documentation in order for the corrective action to proceed. The DIO may conduct interviews and discussions at his/her discretion in order to verify the information. All meetings related to this verification of information will be documented accordingly.

### Initial Appeal Process

1. In the event of an allegation resulting in corrective action, residents/fellows will be notified in a timely manner as described in the Resident Promotion and Non-Renewal Policy for GME at Lexington Medical Center.
2. Residents/fellows may file a written appeal of the corrective action within ten (10) calendar days of notification of the corrective action. The appeal will include:
  - a. Supporting documentation/information opposing the corrective action
  - b. Rationale for resident/fellow appeal
  - c. Evidence of resident/fellow notice of corrective action
  - d. All corresponding documentation provided to the resident/fellow regarding the corrective action
3. The DIO will thoroughly review evidence on both sides of the corrective action and if necessary, complete additional interviews and obtain further documentation. The DIO will complete the investigation and decide on the corrective action within fifteen (15) calendar days following the resident's/fellow's appeal. If the reporting party or resident/fellow wishes to appeal the DIO's final decision, they will do so within three (3) calendar days. This secondary appeal will be submitted through a written request and sent directly to the DIO.
  - a. As part of the thorough review process, the DIO will meet with the resident/fellow individually at least once and with the reporting party recommending the corrective action at least once.

### Secondary Appeal Process

1. The resident/fellow or reporting party seeking corrective action may appeal the DIO's final decision within three (3) calendar days. If this secondary appeal process is requested, the DIO will appoint an Appeals Committee made up of at least two faculty physicians who are not involved in the resident's/fellow's training program. This committee will also be chaired by a hospital executive, such as the CEO, COO, or COS.
2. The Appeal Committee will comprehensively review all documentation provided by both the program and the resident/fellow. They will then determine if any further interviews are necessary and conduct and document any interviews accordingly.



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- a. Both the resident/fellow in question and program representation (DIO or CCC) will have the chance to formally present their case and supporting evidence to the Appeals Committee.
3. After reviewing all documentation, conducting any additional interviews, and hearing from both parties, the Appeals Committee will either approve or dismiss the corrective action and inform both parties in a timely manner. Once the Appeals Committee has made its decision, no further appeals are permitted.