

<b>Hospital-wide Policy</b>	<b>Title: Disciplinary Actions and Procedures</b>
<b>Issuing Department: Graduate Medical Education Office</b>	<b>Effective Date: October 2021</b>
<b>IMPORTANT NOTICE:</b> The official version of this policy is contained in the Policy and Procedure Manager (PPM) and may have been revised since the document was printed.	

**Purpose**

The purpose of this policy and process is to establish disciplinary procedures for all GME training programs to follow if a resident’s training fails to meet academic expectations and/or engages in misconduct.

**Scope**

This policy applies to all residents enrolled in a Tufts Medical Center sponsored graduate medical education program (ACGME accredited and non-accredited). In the event that this policy conflicts with other Tufts MC policies, the other Tufts MC policies apply.

**Definitions**

**Resident:** any physician in a GME program, including interns, residents and fellows.

**Designated Institutional Official (DIO):** the individual in a sponsoring institution who has the authority and responsibility for all of the ACGME-accredited GME programs. At Tufts Medical Center this individual is titled the Associate Chief Medical Officer for Graduate Medical Education.

**Academic Performance** includes the knowledge, skills, and attitudes necessary to achieve competence in the core areas of patient care, medical knowledge, procedural skills, practice-based learning and improvement, interpersonal and communication skills, professionalism, and system-based practice. For ACGME accredited programs, progression with specialty level Milestones is part of academic performance expectations.

**Academic Deficiency** is determined by the Program Director in consultation with the Clinical Competency Committee, and is identified through the program’s feedback and evaluation system (see Evaluation Standards):

Examples of academic deficiencies include, but are not limited to:

- Issues involving knowledge, skills, job performance or scholarship;
- Failure to achieve acceptable exam scores within the time limits defined by the training program;
- Unprofessional conduct;

- Professional incompetence, including conduct that could prove detrimental to Tufts MC and affiliates' patients, employees, staff, volunteers, visitors or operations.

**Misconduct:** conduct by a resident that violates workplace rules or policies, applicable law or widely accepted societal norms.

Examples of misconduct may include, but are not limited to:

- Academic deficiency(ies)
- Conduct, which violates professional and/or ethical standards; disrupts the operations of TMC, its departments, or affiliated hospitals; or disregards the rights or welfare of patients, visitors, or hospital/clinical staff.
- Commission by the resident of an offense under federal, state, or local laws or ordinances which impacts upon the abilities of the resident to appropriately perform his/her normal duties in the residency program.
- Failure to comply with the bylaws, policies, rules, or regulations of TMC or its affiliates
- Ineligible for continued appointment based on ongoing absence/unavailability to perform training duties; failure to satisfy licensure, visa, immunization, registration, or other eligibility requirements for training.

**Disciplinary Action** is any of the following taken in response to misconduct or academic deficiency:

**1. Non-reappointment**

Non-renewal of the resident's appointment and agreement for the next academic year.

**2. Probation**

A temporary modification of a resident's participation in or responsibilities within the training program; these modifications are designed to facilitate the resident's accomplishment of program requirements. The Program Director shall have the authority to place the resident on probation and have wide discretion based on her/his professional judgment to determine the terms of probation. Probation may include, but is not limited to, unique requirements or alterations in scheduling a resident's responsibilities, a reduction or limitation in clinical responsibilities, or enhanced supervision.

**3. Suspension**

A period of time in which the resident is not allowed to take part in all or some activities of the program. Time spent on suspension may not be counted towards the completion of program requirements. During the Suspension the resident will be placed on administrative leave which may include compensation as appropriate for the circumstances as determined solely by Tufts Medical Center.

**4. Termination**

A permanent separation of the resident from the program.

## **Procedure for Disciplinary Action**

### **Recommending Disciplinary Action**

When a Program Director has determined that a Disciplinary Action is warranted, the Program Director should consult with her/his Clinical Competency Committee and Department Chair (Division Chief), and consider the totality of circumstances as then known, including but not limited to, the severity of the resident's behavior, potential for patient harm, prior attempts at behavior modification (and the results of these), and the Program Director's experience and judgment related to resident knowledge, skill, and professionalism progression. Prior to communicating with the resident, the Program Director should alert the DIO, Office of General Counsel, and Employee Relations of her/his intended actions.

The Program Director will prepare a written notice of recommendation of Disciplinary Action.

This notice must include:

- The recommended Disciplinary Action
- A description of the Academic Deficiency (ies) and/or Misconduct that are the basis for the Disciplinary Action
- The specific remedial action or improvement that is required; unless the recommended Disciplinary Action is non-renewal or termination
- A defined period of time with start and end date for the improvement
- The consequences of failure to improve
- Notification of ECFMG and/or BORIM, as required
- Notice of the right to appeal (including a copy of GME 5)

The written notice will be reviewed by the Office of General Counsel and Employee Relations prior to being provided to the resident.

This notice should be signed by the Program Director, and delivered in person to the resident, for their signature as proof of receipt. If in person delivery is not possible, the document will be sent via secure email, with a hard copy delivered to the resident via certified mail/return receipt requested.

A copy of the signed Disciplinary Action notice of recommendation must be placed in the Resident Training File, with copies forwarded to the GME Office and Employee Relations.

### **Pending Final Decision**

The Program Director may remove the resident from participation in the program pending expiration of the time frame to request an appeal regarding non-reappointment or probation and final resolution of the appeal. In making a determination the Program Director should take into account whether the resident's continued participation could endanger the health or wellbeing of patients, staff, the resident, or others. The Program Director should also consider the nature of the basis for the Disciplinary Action.

Residents may appeal a Disciplinary Action. No report of Disciplinary Action to any outside entity, including but not limited to any certifying agency, professional organization, or other training program, may be made unless any such disclosure is authorized in writing by the resident, disclosed pursuant to a compulsory legal process, or done after consultation with the DIO and the Office of General Counsel. This should not prevent the Program or GME Office - for the purposes of assuring appropriate patient coverage - from notifying necessary persons or entities that the resident is on leave.

### **Finalization of Disciplinary Action**

The recommended Disciplinary Action will become final at such time as: the time frame for requesting appeal expires and the resident has not submitted a request for appeal; the resident withdraws the appeal; or the appeal process concludes and the GME Review Committee (GRC) upholds or modifies the Disciplinary Action.

### **Other Administrative Actions**

Administrative actions as set forth below are non-disciplinary in nature. Residents do not have the right to request review or appeal of administrative actions.

### **Administrative Leave Pending Investigation**

The Program Director and DIO may determine that immediate action is required prior to completion of a review or investigation of a possible Misconduct or Academic Deficiency, in order to protect the health and safety of the patients, staff or other persons. The resident may continue to be paid while on administrative leave pending investigation. Administrative leave pending investigation is not, in and of itself, a disciplinary action.

The Office of General Counsel and Employee Relations (Human Resources) should be alerted. This action itself is not disciplinary in nature, and therefore cannot be appealed. This type of leave is intended to be short term to allow for a review of the underlying concern.

### **Automatic resignation**

The resident may be considered to have automatically resigned under the following circumstances:

- Failure to provide Visa or Licensure Verification
- Unapproved absence: residents are expected to communicate directly with the Program Director in the event he or she is unable to participate in the training program for any period of time. Based on this communication, the Program Director may grant a leave in times of exceptional circumstances.

- Absence without leave from the Program for > 48 hours; unless a suitable written explanation is submitted to the Program Director and DIO within 10 working days of the first day of absence without leave.

The Program Director will consult with the DIO prior to determining that a resident has automatically resigned based on the description in this section.

The Program Director will provide written notice of the resident's automatic resignation in person if possible. If in person delivery is not possible, the document will be sent via secure email, with a hard copy delivered to the resident via certified mail/return receipt requested.

Automatic resignation does not entitle the resident to the appeal procedures set forth in Resolution of Disputes and Appeals Policy.

## **TERMINATION**

The basis for termination (or dismissal) may be failure to achieve the learning objectives of the program, unprofessional behavior, substandard clinical practice and judgment, failure to develop sufficient technical skill, failure to develop sufficient teaching skills, unprofessional teaching behavior, or substandard performance. Attempts at counseling and probation must have been made, documented and been unsuccessful.

Residents also may be immediately terminated without counseling or probation for serious violations of Tufts Medical Center policies or ethical or legal standards of conduct.

Termination from a training program must be at the recommendation of the program director and the departmental chair/division chief (if they are not the same), and approved by the DIO. The resident shall be advised of such, in writing, by the program director.

This notice shall include a brief description of the grounds for the termination. All related records and documentation, including attempts at remedial action, are to be maintained in the official academic record of the resident located in the Department of Graduate Medical Education. Individual programs should also retain copies in the Resident Training File.

Residents may appeal Termination as described in the Resolution of Disputes and Appeal Policy.

## **Reporting to the ECFMG**

The ECFMG requires notification in the event of "Incidents or Allegations" or dismissal that involve Exchange Visitor Physicians (those on J-1 or J-2 visas). As it relates to this policy, Finalized Disciplinary Actions should be reported by the Program Director in consultation with the GME Office.

## **Reporting to BORIM**

Finalized Disciplinary Actions such as non-renewal, probation, suspension, and termination are reportable to BORIM. The DIO will consult with the Office of General Counsel in instances where BORIM reporting may be required. The DIO will make required reports to BORIM.