



Graduate Medical Education (GME) Resident Academic Deficiency/Misconduct Policy and Procedure

Revised August 16, 2018

PURPOSE: To establish a policy and procedure to address academic performance by a resident or fellow that fails to meet expected standards, and to address situations in which a resident or fellow is alleged to have engaged in misconduct.

SCOPE: This policy and procedure applies to all residents and fellows in residency/ fellowship programs sponsored by the University of Missouri-Kansas City (UMKC) School of Medicine and employed by UMKC. Per affiliate agreement, Center for Behavioral Medicine (CBM) employed residents/fellows are subject to this policy and procedure. Per affiliate agreement, Children's Mercy Hospital (CMH) employed residents/fellows are subject to the CMH post-graduate training policies with coordination between CMH and UMKC Graduate Medical Education (GME) Offices to ensure that policies governing residents, fellows, and their training programs are consistent and in agreement.

POLICY ACKNOWLEDGEMENT: Program Directors are responsible for compliance with this Policy and Procedure. For Accreditation Council for Graduate Medical Education (ACGME) programs, the Program Director is responsible for ensuring that the program's Clinical Competency Committee complies with this policy. Program Directors must attest to understanding and commitment to comply with this policy by signing an acknowledgment form.

DEFINITIONS:

Resident refers to a resident or fellow in a training program in which UMKC School of Medicine serves as the institutional sponsor.

Program Director (PD) refers to the specialty faculty member that supervises the training program for residents or fellows and has the authority and accountability for the operation of the program.

Graduate Medical Education Council (GMEC) refers to the UMKC council which is comprised of faculty, residents, and clinical affiliate elected or appointed members whose responsibility is the oversight of the accreditation status of the sponsoring institution and each of its sponsored graduate medical education programs, including oversight of the quality of the GME learning and working environment.

Faculty Advisor refers to a faculty member which may/may not be the PD and may/may not be suggested by the resident who provides guidance during academic deficiency remediation. Of note, many programs have faculty advisors for each resident regardless of a need for remediation.

Advisor refers to a faculty member or other advisor, including an attorney, who can serve in an advisory capacity in cases of resident **Academic Deficiency** and/or **Misconduct** when meeting with the CCC or for any resident that requests a review for a **Reportable Action**.

Clinical Competency Committee (CCC), formerly referred to as the Education Committee, is the

training program committee responsible for the evaluation, monitoring, and reporting of each resident during their progress through the proscribed curriculum of training. The CCC will advise the PD regarding resident progress, including recommendations for promotion, remediation, and reportable action(s). The CCC is composed of a minimum of 3 faculty members from the specialty and may include additional members such as faculty from other programs, other health professionals who have extensive contact and experience with the program's residents in patient care and other health care settings, or Chief residents who have completed core residency programs in their specialty and are eligible for specialty board certification. A program may choose to have a sub-committee appointed by the CCC to make recommendations to the CCC for a resident that is not meeting academic expectations. The CCC is then charged with reviewing those recommendations as part of their decision making regarding academic deficiency and/or misconduct as outlined in this policy.

Academic Performance includes the knowledge, skills, and attitudes necessary to achieve competence in the core areas of medical knowledge, patient care, communication, professionalism, practice-based learning and systems-based practice. For Accreditation Council for Graduate Medical Education (ACGME) accredited programs, progression with specialty level Milestones is part of academic performance expectations.

Academic Deficiency is determined by the program's CCC and is defined as **Academic Performance** that does not meet academic expectations and is identified through review of the program's performance feedback tools described in **Performance Feedback**. Each evaluation should be considered but also viewed in the context of the course of training and progression for each resident. The CCC will accept unsolicited and informal evaluations of resident academic performance, but should not make recommendations regarding resident progress or failure to meet academic expectations without substantiation of the concerns through at least one formal evaluation mechanism or without a comprehensive assessment of the resident's performance.

Misconduct includes improper behavior; intentional wrongdoing; violation of a law, standard of practice, or program, hospital, or university policy. Examples include dishonesty, plagiarism, false documentation, discriminatory or harassing behavior, or medication diversion or theft.

Performance Feedback is required to be routine and structured for each resident during the course of their training period. Informal feedback (often verbal feedback after patient care provided by faculty, supervisors, or other healthcare professionals) is encouraged during the course of each clinical rotation by the resident but cannot be the sole method of feedback. Formal feedback includes end of rotation evaluations, performance on standardized tests or in structured patient contacts, patient satisfaction surveys, 360 degree evaluations, simulation educational experiences, six-month Milestone performance assessment and semi-annual evaluations, and/or other program specific evaluations. Residents are encouraged to seek out performance feedback, reflect and self-assess their strengths and areas for improvement throughout their training. Faculty, rotation, and program feedback should be timely to promote performance improvement.

Summative Evaluation by the PD is required for each resident upon completion of the program. This evaluation must become part of the resident's permanent record maintained by the institution, and must be accessible for review by the resident. It must document the resident's performance during the final period of education and verify that the resident has demonstrated sufficient competence to enter practice without direct supervision.

Remediation Plan/ Performance Improvement Plan: If the CCC determines that a resident is not meeting academic performance expectations they will recommend a remediation plan in conjunction with the PD to guide performance improvement for the resident. The PD and/or CCC should approach the deficiency with the resident in a manner of concern and support. The program is advised to include the

resident in remediation plan development as he/she might have input to what activities might be most meaningful to accomplish performance improvement. The PD or CCC may need to modify the final remediation plan to be implemented after input from the resident. Progress with the implemented remediation plan should be monitored along with other measures of performance for all residents by the CCC to determine when/if the resident has successfully/unsuccessfully addressed the deficiency. This is not a punitive process, but rather a program and faculty assisted process to ensure that a resident not meeting standards has every opportunity and guidance to progress their knowledge, skills, and attitudes to achieve competence in their medical specialty.

The CCC must then evaluate the remediation and other assessments for the resident during the remediation period to determine if adequate progression of skills has occurred. The program has a responsibility to both the resident and patients that are cared for during the training period to determine that the resident has demonstrated sufficient competence to enter practice without direct supervision.

***Special Note:** To be eligible for consideration of promotion to PGY-3, a resident must have successfully completed the examination requirements necessary for permanent medical licensure (Steps I, II, and III of USMLE or COMLEX). In the event that a resident or fellow is accepted into a training program at UMKC at a more advanced level and has not yet met this requirement, they will have one year to successfully complete the examinations. If all examination requirements have not been met by the beginning of the PGY-2 year, the program director will be notified and asked to refer the resident to the program's CCC/ Education Committee for development of a remediation plan.

Letter of Academic Deficiency: A formal letter issued by the CCC (outlined in this policy), issued to a resident who has failed to meet less formal remediation plan expectations and/or has been found by the CCC to have serious academic performance.

Notice of Successful Remediation is issued by the CCC to a resident and PD when the CCC determines that the remediation plan was successful, and thereby concludes the remediation plan.

Notice of Failure to Remediate is issued by the CCC to a resident and PD when the CCC determines that the remediation plan was unsuccessful. This Notice is provided when reportable action is not being considered by the CCC at this time and a new remediation plan is determined to be required and developed.

Notice of Proposed Reportable Action is a formal letter issued by the CCC, issued to a resident and their PD when a resident has failed to meet the expectations outlined in the Letter of Academic Deficiency in which the CCC is proposing a reportable action for the resident. All reportable actions being considered should be disclosed to the resident but a decision as to any action will not be made until the resident is given the opportunity to appear before the CCC and present their case. A resident upon receipt of such a letter, has the opportunity to meet with the CCC prior to the final CCC's decision on reportable action. A resident must request a meeting with the CCC within 5 business days of notification. If no request is made, than a Notice of Reportable Action will occur.

Notice of Reportable Action: This Notice will be provided to the resident and PD when the CCC has determined that reportable action needs to be taken with regards to a resident. This notice must occur after **Notice of Proposed Reportable Action** as described above. Upon receipt, the resident may request a review of the decision within five business days. The PD must immediately forward a **Notice of Reportable Action** to the Associate Dean for GME.

Request for Review of Reportable Action is a resident's right to request a review of any reportable action decision from the CCC. The procedure is described below and must be followed.

Written Warning may be issued by the CCC to a resident and PD when the CCC determines that Misconduct has occurred but no other remediation or Proposed Reportable Action or Reportable Action has been recommended. It should outline the findings of the investigation, outline expectations of conduct moving forward, and outline that further Misconduct will require that the procedure outlined in this policy will be followed and may result in Reportable Action.

Reportable Actions are those actions that the training program, GME administration, and/or resident must disclose to others upon request, including future employers, privileging hospitals, and licensing or specialty boards. A decision that results in extension of training, non-promotion, probation, suspension, non-renewal of contract, or dismissal is considered a reportable action. The PD must immediately notify the Associate Dean for Graduate Medical Education (GME) of all reportable actions so that the GMEC can review the decision to ensure due process for the resident in question.

PROCEDURE:

A. ACADEMIC DEFICIENCIES

- 1) Each residency/ fellowship program's CCC determines what skills, competencies, attitudes and Milestones should be demonstrated by a resident at points throughout his/her training, including determining when a resident is not meeting minimal standards of performance in that program. Performance feedback is required to be routine and structured for each resident during the course of his/her training period. Formal feedback includes end of rotation evaluations, performance on standardized tests or in structured patient contacts, patient satisfaction surveys, 360 degree evaluations, simulation education experiences, six-month Milestone performance assessment and semi-annual evaluations, and/or other program specific evaluations. Residents are encouraged to seek out performance feedback, reflect, and self-assess their strengths and areas for improvement throughout their training. Faculty, rotation, and program feedback should be timely to promote performance improvement.
- 2) Deficiencies in academic performance will be identified and evaluated by the CCC of the training program through review of the program's performance feedback tools as described above. Each evaluation should be considered but also viewed in the context of the course of training and progression for each resident. The CCC will accept unsolicited and informal evaluations of resident academic performance, but should not make recommendations regarding resident progress or failure to meet academic expectations without substantiation of the concerns through at least one formal evaluation mechanism or without a comprehensive assessment of the resident's performance.
- 3) If a resident's performance is deemed to be deficient by the CCC, the PD will be notified and the CCC will issue a formal **Letter of Academic Deficiency** to the resident, setting forth a detailed description of the deficiency and describing specific examples related to the core competencies and/or Milestones.
- 4) Following the issuance of formal **Letter of Academic Deficiency**, the CCC (in conjunction with the PD) must develop a remediation plan to address the resident's academic deficiencies. Before the remediation plan is finalized the PD and/or CCC should meet with the resident so that the resident may have input into the remediation activities that might address his/her performance issues. Additionally, the remediation plan must be approved by the CCC. Once the remediation plan is finalized, it must be set forth in writing and provided to the resident and PD containing the following elements:
 - a. A timeline for the remediation; the timeline should not be indefinite.
 - b. The Performance goals and expectations for the resident; what specific knowledge, skills, attitudes, and Milestones need to improve and how.

- c. A method to assess accomplishment and what performance feedback will specifically measure the academic deficiency. This may be routine performance feedback, but may also involve more frequent feedback, simulation assessment, chart reviews, etc. depending on the deficiency.
 - d. The manner in which and how often the CCC will monitor progress; what performance feedback measures the CCC will use to determine success, the need for modification and/or determination of failure of the remediation plan;
 - e. The resident's responsibilities in the remediation plan; this should be specified so that there is accountability during the process.
 - f. Assignment of a **Faculty Advisor** during the remediation period to receive initial and ongoing mentorship during remediation; this may be the PD or another faculty. Depending on the situation, input from the resident regarding the assignment of the Faculty Advisor should be considered.
 - g. An outline of the consequences of meeting/ not meeting the performance goals of the remediation plan; what determines successful completion of the remediation, and what happens if the resident does not comply with or is unsuccessful in completing the remediation.
- 5) **Successful Completion of Remediation:** The resident that successfully meets the goals and expectations outlined in the Remediation Plan will receive a **Notice of Successful Remediation** from the CCC which concludes the remediation plan. The **Summative Evaluation** of a resident when he/she completes his/her training program should not reference any successful remediation for which there was no reportable action taken.
- 6) **Failure to Remediate:** If the resident fails to successfully meet the goals and expectations of the Remediation Plan, the CCC will determine the next steps, including the possibility of taking a proposed reportable action. If no reportable action is being considered, a **Notice of Failure to Remediate** should be issued to the resident and PD by the CCC, and a new remediation plan should be developed and provided to the resident as outlined in the procedures above.
- 7) **Notice of Proposed Reportable Action:** If the CCC is considering taking a reportable action (probation, delay in promotion, suspension, non-renewal of contract, dismissal or termination from the program), a **Notice of Proposed Reportable Action** should be provided to the resident and the PD, setting forth the failure to remediate and indicating any/all reportable action(s) being considered by the CCC.

*Special Note: To be eligible for consideration of promotion to PGY-3, a resident must have successfully completed the examination requirements necessary for permanent medical licensure (Steps I, II, and III of USMLE or COMLEX). If all examination requirements have not been met by the beginning of the PGY-3 year, the contract for continued employment will not be offered and the resident will be referred to the program's CCC for review and recommendation.

The letter must also notify the resident of the opportunity to meet with the CCC prior to implementation of a **Reportable Action** and that the resident has five business days to notify the CCC Chair and PD of a request to meet. Following the resident's receipt of the **Notice of Proposed Reportable Action**, the following should occur:

- a. The resident must have the opportunity to formally address the academic concerns by meeting with the CCC prior to the CCC's determination of what action to take. The resident may have an Advisor present with the resident during the meeting, but the Advisor may only act in an advisory capacity to the resident, and may not otherwise actively participate in the proceedings. If the Advisor is a CCC member they must recuse themselves from the review decision.

- b. Following this meeting, the CCC may recommend another **Letter of Academic Deficiency** and continuation or modification of the remediation plan, and/ or a reportable action. If the decision includes a reportable action, a **Notice of Reportable Action** must be issued to the resident with a copy to the PD. The **Notice of Reportable Action** should contain all of the elements required in the **Letter of Academic Deficiency**. The PD must immediately forward a copy of this **Notice of Reportable Action** to the Associate Dean for GME. The **Notice of Reportable Action** should also notify the resident of his/her right to request review of the decision as described below.
- c. If the resident does not request an opportunity to meet with the CCC within five business days of receipt of a **Notice of Proposed Reportable Action**, the CCC will issue a **Notice of Reportable Action**. When the resident remains in the program, a Remediation Plan should be implemented (following procedures listed in #4 above). The PD must notify the Associate Dean for GME if the resident does not request a review.

B. **MISCONDUCT**

- 1) Misconduct may be identified through the formal training program evaluation system, but may also be identified by informal or incident reports to the program's administration. Any concern of resident misconduct must be reported directly to the PD.
- 2) Initial Investigation: Upon receipt of a complaint of misconduct by a resident, through formal or informal channels, an investigation of the complaint should be undertaken. This investigation may be directed by the PD or a CCC member, and may include information obtained from clinical affiliates. This investigation must include a review of the complaint and a discussion with the resident. If there is insufficient information to conclude that misconduct may have occurred, no further action will be taken.
- 3) If the matter involves allegations of sexual harassment and/or any Title IX concern (i.e. Gender discrimination), the PD must immediately notify the Associate Dean for GME who will refer the matter to the University's Title IX Coordinator for investigation. If the Associate Dean for GME is not available, the PD must notify the Title IX Coordinator for investigation and notify the Dean of the Medical School.
- 4) If the matter involves possible medication diversion or theft, the PD must immediately notify the Associate Dean for GME and the Associate Dean(s) for the clinical affiliate(s) where the incident may have occurred. The clinical affiliate pharmacy supervisor will be notified of the incident by the Associate Dean of the clinical affiliate for investigation. The Associate Dean for GME will notify the Dean of the Medical School of the concern. If the Associate Dean for GME is not available, the PD must notify the Dean of the Medical School and the Associate Dean(s) for the clinical affiliate(s).
- 5) If the alleged misconduct occurred at a clinical affiliate, other investigations may be required by that site, the University, or other entities. The resident is expected to cooperate with all such investigations. The resident's employer will be notified by the PD. Per clinical affiliate agreements with the School of Medicine, clinical affiliates have the right to determine whether or not to allow a resident to participate in residency activities at the clinical affiliate's sites.
- 6) CCC Review: The CCC will review the complaint of misconduct, the evidence gathered by the initial investigation, and will meet with the resident regarding the complaint. The CCC may also collect additional information, independent of the initial investigation.
 - a. Following this meeting, the CCC may recommend no further action (if the complaint of misconduct is not substantiated) or another action if the misconduct is substantiated. This could include a **Written Warning**, remediation, or if the recommendation includes a **Reportable Action**, a **Notice of Proposed Reportable Action** must be issued to the resident with a copy to the PD.
 - i. The **Notice of Proposed Reportable Action** should contain all of the elements that led to substantiation of the misconduct and the recommendation for any/all

reportable action(s) being considered by the CCC. The resident has the right to meet with the CCC upon request within five business days of receipt of this Notice. Upon such a request, a meeting with the CCC will occur; the resident may have his/her Advisor present at the meeting, but the Advisor may only act in an advisory capacity to the resident, and may not otherwise actively participate in the proceedings. If the Advisor is a CCC member he/she must recuse himself/herself from the review recommendation. Following this meeting, the CCC will notify the resident and PD of their decision, and where a **Reportable Action** is part of that decision, providing the resident and PD with a **Notice of Reportable Action**. The PD must immediately forward a copy of this **Notice of Reportable Action** to the Associate Dean for GME.

- b. If the resident does not request an opportunity to meet with the CCC within five days of receipt of a Notice of **Proposed Reportable Action**, then the CCC will issue a **Notice of Reportable Action**. When the resident remains in the program, a Remediation Plan should be implemented (Follow Academic Deficiencies #4 procedures). The PD must notify the Associate Dean for GME if the resident does not request a review.
 - c. Upon receipt of a **Notice of Reportable Action**, a resident may request a review as described below.
- 7) At any time, if new evidence or information pertaining to an alleged act of misconduct is brought to the attention of the CCC, the CCC has the right, in its sole discretion, to reopen any investigation in order to determine if different action is needed with regard to the resident.

C. REQUEST FOR REVIEW OF REPORTABLE ACTION:

Residents have the right to request a review of any **Reportable Action** received from the CCC in a **Notice of Reportable Action**. The purpose of this review is to determine if, in the case of academic deficiencies, sufficient documentation is present to warrant academic concerns, to determine if the resident has previously had the opportunity for remediation, and that this policy has been followed. In cases of misconduct, it is to determine if there is substantiation of the complaint, that the complaint is serious enough to warrant **Reportable Action**, and that this policy has been followed. The following should occur:

- 1) The resident must formally request a review in writing or by email directed to the PD within five (5) business days of the date of the CCC's **Notice of Reportable Action**.
- 2) If the CCC's action is suspension or dismissal and the resident requests a review of that action within the 5 day time period, the CCC may remove the resident from all clinical duties, but in its discretion, may allow the resident to continue with the didactic curriculum until the review process is completed.
- 3) Upon receipt of a timely request for review from the resident, the PD must provide a copy of the request for review to the Associate Dean for GME and the CCC Chair.
- 4) Upon receipt of the resident request for review, the Associate Dean for GME will select three members of the GMEC who are not faculty in the training program of the resident; these three members will constitute the review committee. GMEC resident members are excluded as members of the review committee. The Associate Dean of GME will notify the PD and the resident of the identity of the members of the review committee as soon as reasonably possible.
- 5) Within five (5) business days of receipt of notification of the members of the review committee, the PD must provide the resident requesting the review and the members of the review committee the following materials:
 - a. All evaluations and comprehensive assessments of the resident.

- b. A written report from the CCC summarizing their concerns and the rationale for the recommendation for taking reportable action; and
 - c. In the case of **Academic Deficiencies**, copies of all **Letters of Academic Deficiency**, **Failure to Remediate**, **Notice of Proposed Reportable Action**, and **Notice of Reportable Action** issued to the resident.
 - d. In the case of **Misconduct**, copies of all materials reviewed by the CCC in the review and investigation, **Written Warning(s)**, remediation plan(s), **Notice of Proposed Reportable Action**, and the **Notice of Reportable Action**.
- 6) Within five (5) business days of receipt of notification of the members of the review committee, the resident may provide any materials that he/she wants the members of the review committee to consider.
- 7) The review committee, resident, and PD (and/or Chair of the CCC) must have the opportunity to review all materials prior to meeting. The expectation is that the meeting will occur as quickly as reasonably possible, and in general, it is expected that the meeting will take place within fourteen (14) business days of the date the materials are made available to the resident, PD (and/or Chair of the CCC), and review committee members. During the review meeting:
- a. The resident must have the opportunity to present his/her perspective and respond to any questions from the members of the review committee. The resident will meet with the review committee alone; however, an Advisor may be present with the resident during the meeting, but the Advisor may only act in an advisory capacity to the resident, and may not otherwise actively participate in the proceedings.
 - b. The PD and/or Chair of the CCC must have the opportunity to present his/her perspective and respond to any questions from the members of the review committee. The PD and/or Chair of the CCC meets with the review committee independent of the resident and their Advisor. The review committee must have the opportunity to discuss with the PD and/or Chair of the CCC any information discovered or raised during the resident's meeting with the review committee, including requesting further review materials. If any additional review materials are requested, they must be provided to the review committee and the resident within five (5) business days.
 - c. Upon review of any additional materials:
 - i. the resident must have the opportunity to respond in writing to the review committee regarding the additional materials, in writing, within five (5) business days of the receipt of the additional materials.
 - ii. the review committee may request to meet with the resident (either after receipt of the additional materials and/or receipt of the response to the additional materials by the resident).
 - iii. the review committee may request to meet with the PD and/or CCC Chair.
 - d. A final decision from the review committee should be rendered within five (5) business days of the date of the meeting with the resident, except where additional materials are sought by the review committee, in which case the decision should be rendered within five (5) business days of receipt of such additional materials and the resident's response to the additional materials and/or review committee requested meetings with the resident or PD/CCC Chair.
 - e. The review committee may decide to:
 - i. adopt the decision of the CCC, or
 - ii. request further review by the CCC based on documentation, remediation plans and/or compliance with policy. Specific concerns with the CCC's decision should be outlined. In situations where the review committee requests further review by the CCC, the CCC must review and render a final decision within fourteen (14) business days of the date of the review committee's decision. Once the CCC renders its final decision, the resident has the right to **Request a Review** if a **Reportable Action** is the decision and then follow the procedures outlined above.

- iii. The decision of the review committee must be provided in writing to the resident, the PD, the CCC Chair, and the Associate Dean for GME.
- 8) It is the PD's responsibility to submit to the GMEC Chair a summary of any **Reportable Action** regarding a resident. If a resident requests a review of the **Reportable Action**, the GMEC will not review until the review committee has had the opportunity to follow the procedures above. The GMEC will review the resident file to confirm that the appropriate policy and procedures have been followed. Such reviews of the CCC's decision will be reported to the PD and the resident by the GMEC Chair. Additionally, in a manner not identifying the resident, the decision will be recorded in the GMEC minutes. If it is determined that this policy has not been followed, the PD and resident will be notified of the GMEC concerns and the PD must forward to the CCC for further review following the procedures outlined above.
- 9) Residents who are employees of the University, may also pursue a grievance in accordance with applicable University of Missouri grievance policies and procedures.

Revision of UMKC Resident Disciplinary Action Policy and Procedure, October 15, 2012

Revision of Graduate Medical Education (GME) Resident Academic Deficiency/Misconduct Policy and Procedure, February 15, 2018

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