

Performance Concerns - Structured Improvement, Probation, and Termination of Appointment

gme-adm-0016

About This Policy

Effective Dates:

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Responsible University Administrator:

Senior Associate Dean for GME

Policy Contact:

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Scope

This policy applies to all Indiana University School of Medicine (IUSM) Graduate Medical Education (GME) resident and fellow physicians.

Policy Statement

The duties, privileges, authority and responsibilities of GME residents are governed by their letters of appointment, by specific written authorization or delegation by the Dean, and by the rules, regulations, policies and procedures of the medical staffs and hospitals. Residents will be appointed for the term or terms set out in their letters of appointment and will be renewed in accordance with the provisions of their letters of appointment.

During the course of training, concerns may arise about a resident's performance. These concerns may be related to disciplinary issues or to academic performance. Disciplinary issues may include failure to abide by the rules and regulations or policies and procedures of the medical staffs and hospitals, or for activities or professional conduct considered to be disruptive to the operations of the hospitals, teaching programs or to the quality of patient care, or activities which constitute a material breach of the letter of appointment. Examples may include HIPAA violations, inappropriate sexual behavior, unapproved moonlighting, etc. When a disciplinary issue arises, the program director must first determine whether it is serious enough to warrant a summary suspension. If not, the resident should be put on a SIP or probation plan, with clear expectations.

If a disciplinary concern is severe, the program director should contact the DIO to discuss summary suspension. Summary suspension may occur whenever a resident's conduct or activities, in the opinion of the DIO or designee, may cause a threat of injury or damage to the health or safety of patients, employees or other persons in the hospital or to the resident unless prompt remedial action is taken, or if it appears reasonable to believe that the resident has failed to observe all laws or principles of medical ethics of the profession in such a manner as to impose a threat to patient care or the high ethical standards expected of residents. The DIO or designee may summarily suspend all or any part of resident's duties at such time and for such duration and under such terms and conditions as stated in the Procedure for Summary Suspension. See also the "Management of Fitness for Duty" and "Management of Impaired GME Residents" policies.

If an academic concern is identified, including inadequate progress in any milestone, the program director should generally attempt to determine the competency(-ies) in need of improvement, then create a plan for improving performance. This plan could involve coaching or a learning plan for early concerns, a SIP for more consistent deficiencies, or probation for severe problems. The program's clinical competency committee should be involved

in the decision and in determining success of the intervention. If the SIP is not successful in performance improvement, a formal probation plan may be instituted.

If a resident does not successfully complete a probation plan, additional actions may be taken in the form of continued probation, termination, or non-renewal of appointment.

If training will be extended due to slower academic progress, a SIP or probation plan must be in place and the DIO must be notified. Program directors must confer with the Chair of the department, Chief of the division/section, and the DIO while making decisions leading to non-reappointment or termination.

If both a disciplinary and an academic concern are identified, the resident can have both issues incorporated into one plan. However, their status would be the highest level of concern (such as probation or SIP).

Residents must be able to safely practice medicine at a skill level commensurate with their level of training, within the context of the clinical learning environment of the specialty. See the [Management of Fitness for Duty](#) policy.

If a resident has a concern following a notification of probation, termination, or non-renewal of appointment, the resident has the right to request an institutional grievance review by a GMEC subcommittee through Procedure VI below. If the grievance review confirms the decision of termination or non-renewal of appointment, the resident shall have the right to appeal the decision of the GMEC subcommittee through Procedure VII below.

Reason For Policy

The purpose of this policy is to define terms and procedures related to **normal teaching**, disciplinary concerns, structured improvement, probation, non-reappointment or termination of a resident. The policy will also review indications for a summary suspension.

Procedure

I. Performance assessment and review of residents

See the [Evaluation and Promotion of Residents](#) policy for full details. Residents must have both formative and summative assessments of their performance, in accordance with ACGME core program requirements. Non-accredited programs must also provide timely evaluations. These evaluations must be available to the resident.

II. Performance concerns

When a program director becomes aware of a performance concern, they should act to determine the nature and severity of the concern. If the concern represents a disciplinary issue (rather than an academic issue) as described above, or if there is concern for fitness for duty, the program director should contact the DIO immediately; escalation to probation or removal from the clinical environment may be required. For academic concerns, the process below should be followed.

III. Structured improvement plan (SIP)

When one or more deficiencies are identified, the program director should issue the resident a SIP. Whenever possible, the CCC should be involved with determining the need for improvement and the criteria for success. The resident must be informed in person of this decision and must be provided with a hard copy that includes the following:

- A statement identifying the area(s) of deficiency
- A plan for improvement, including the duration of the SIP
- A plan for supporting the resident's skill development
- Criteria by which success will be assessed
- A plan for monitoring progress and providing feedback by a mentor or PD

- Written notice that failure to meet the conditions of the SIP could result in additional SIP, probation, extended training, non-renewal of appointment, or termination from the training program at any point during the SIP period or at the conclusion of the SIP period.

The program director or designee must document that the meeting with the resident has occurred and that the resident was provided with the SIP. The program's CCC chairperson should receive a copy of the letter. At the end of the SIP period, the program's CCC should convene to determine whether the improvement was successful, and their recommendations should be sent to the program director for a final decision. For non-accredited or non-standard programs that are not required to have a CCC, these decisions should be made by the program director in collaboration with core faculty members.

If the SIP is successful, the resident should be provided with a letter confirming satisfactory completion; copies of the letter should be provided to the CCC chairperson. We suggest but do not require that the DIO receive copies of SIP letters.

If the SIP is partially successful or unsuccessful, the CCC should recommend next steps to the program director. These may include extension of SIP, probation, non-promotion, non-renewal of appointment, or termination.

Program directors may refer to the resources provided in the remediation toolkit to determine the appropriate course of action for instances of resident professionalism concerns or academic underperformance.

IV. Probation, non-renewal of appointment, and termination

When an SIP is unsuccessful, or when a deficiency is so egregious that an SIP is not sufficient, progression to probation may be appropriate. The recommendation for probation should come from the program's CCC to the program director. The program director should then draft a letter to the resident in accordance with Attachment 1. This letter must be forwarded to the DIO for review. The letter must then be provided to the resident in person, along with a copy of this policy.

When the DIO receives the probation letter, the DIO or designee will meet with the resident to ensure they understand the decision and possible outcomes.

At the conclusion of the probationary period, the CCC should meet to determine whether the probation was successful, and their recommendations should be sent to the program director for a final decision. If probation is successful, the resident shall be provided with a letter confirming satisfactory completion and next steps (SIP, coaching, etc); copies of the letter must be provided to the DIO and to the CCC chairperson.

If probation is unsuccessful, the CCC should recommend next steps, and their recommendation should be sent to the program director. These steps may include extension of probation, non-renewal of appointment, or termination.

A program director must notify the DIO when a non-reappointment is being considered for a resident. A non-reappointment plan should be in place four months before the end of current letter of appointment if possible.

If non-renewal or termination are recommended, the program director and department chair must compile a comprehensive report detailing the academic record or event leading to termination or non-renewal. The written statement should include dates and outcomes of meetings/communications with the resident about their performance concerns, performance assessments, CCC minutes, written patient/nursing complaints, student evaluations of teaching, or any other supporting documentation the CCC/PD used to reach their decision. The report should include the program's recommendations to the DIO regarding disposition. After approval of the termination decision from the DIO, the resident will be notified of the termination recommendation.

The resident will have the option to file a grievance with the DIO if they disagree with the probation, termination, or non-renewal of appointment decision (see below).

Probation, termination, and non-renewal of appointment are reportable to the ACGME, specialty boards, licensing bodies, and/or future employers.

V. Procedure for Filing a Discrimination complaint

Formal charges of discrimination based on race, color, sex, age, religion, national or ethnic origin, disability, marital status, political beliefs, family status, sexual orientation, or veteran status should be filed with the campus Office of Institutional Engagement (OIE).

The submission of a complaint shall not relieve a resident from his or her responsibilities, including patient care, pending the outcome of any filing.

VI. Procedure for grievance related to probation, termination, or non-renewal of appointment

If a resident has a concern following a notification of probation, termination, or non-renewal of appointment, the resident should promptly discuss the concern and request a review with the resident's program director and department leadership. If the matter is not satisfactorily resolved after review by the department and training program, the resident has the right to request an institutional grievance review.

Deadline	Item(s) due
Day 0	Notice provided to resident
Day 14	Resident submits written grievance
Day 35	GMEC subcommittee meeting
Day 38	Decision rendered

The resident must forward a written grievance for an institutional review to the DIO within fourteen (14) days of receipt of the probation, termination, or non-renewal of appointment letter. The resident must provide clear and concise reasons for the grievance with supporting facts and arguments, in 1500 words or less. Grounds for grievance may include that processes and policies were not followed properly, that the resident did not have adequate notice of unsatisfactory performance, etc. The grievance cannot be due to a disagreement regarding assessment of their performance.

The grievance will be forwarded to the GMEC probation/termination subcommittee. This committee shall be composed of at least three faculty members and one resident appointed by the DIO, none of whom shall be from the resident's training program. This committee should convene within 21 days of the resident's grievance.

The committee should consider the following:

- that the proper processes and policies were followed by the program director and CCC,
- that there is adequate documentation of academic or disciplinary concern through formal assessments and/or CCC consensus,
- that performance assessments were accessible by the resident.

The committee will either uphold the program director's decision or find that there is inadequate support for the decision. If there is inadequate support, the committee can either request additional

documentation or recommend alternative action. Any additional documentation requested must be provided within seven days of the decision.

Following review of the committee's decision, the DIO or their designee, with the consultation and approval of the Dean of the School of Medicine or their designee, render a decision.

VII. Appeals to the grievance decision

In cases of termination or non-renewal of appointment, the resident shall have the right to appeal the decision of the GMEC subcommittee. The resident must submit written notice to the DIO and the program director that they are appealing the decision within three business days of receipt of the grievance decision letter.

- | Deadline | Item(s) due |
|----------|---|
| Day 0 | grievance decision letter transmitted to resident |
| Day 3 | Resident submits written notice of appeal |
| Day 6 | GME office transmits documents to resident |
| Day 14 | Resident response due; PD response is optional |
| Day 21 | GMEC subcommittee, resident, PD meeting |
| Day 24 | Decision prepared |
| Day 25 | GMEC subcommittee review and comment |
| Day 26 | Final decision forwarded to Dean |

The GME office will provide the resident with all documents that were considered by the GMEC, including the comprehensive report filed by the program and any supporting documentation submitted by the program, within three business days of receipt of notice of appeal. The resident must prepare a response to the GMEC's decision with supporting documentation within 14 days of receipt of their decision. The program director or designee can also prepare a response, with additional supporting documentation, also to be submitted within 14 days of the decision. If the documents are not received within the time allotted, the grievance will be automatically denied.

The GMEC subcommittee will reconvene within 21 days to hear the appeal from the date the grievance was filed. The committee should be composed of at least three faculty members and one resident appointed by the DIO or designee, none of whom shall be from the resident's training program.

This committee may be the same group involved with the grievance decision, or substitutions may be made by the DIO or designee based on availability. At the GMEC appeal meeting, the following will happen:

- a. The resident will have an opportunity to present their case. The maximum duration of this presentation will be set in advance by the DIO based on the complexity of the case but will generally range from 15-20 minutes. The resident may be accompanied by an advisor, identified by the resident by name and title to the GME Office at least five (5) business days in advance of the meeting with the GMEC, who may advise the resident, but may not otherwise participate in the review. If the resident chooses to bring an attorney as their advisor, the IUSM attorney will also attend.
- b. The Program Director or a designated representative (whose attendance/representation is approved in advance by the DIO) will be required to make an oral presentation before the GMEC subcommittee. The maximum duration of this presentation will be set in advance by the DIO but will generally be the same duration allowed to the resident.
- c. The resident and the Program Director, or their designated representative, will be allowed to listen to each other's presentations to the GMEC.
- d. Following the two presentations, the members of the GMEC subcommittee may ask questions to either side.
- e. Each side will then be allotted five minutes for any final comments.
- f. Following the final comments, the program director/designee and the resident will be excused and the GMEC subcommittee will meet in executive session and attempt to reach consensus or vote on whether the termination or non-renewal of appointment should be upheld.
- g. Minutes will not be taken during the presentation and review
- h. At the conclusion of the GMEC executive session, a written statement will be prepared by the DIO or their designee within 72 hours, in which the GMEC's recommendation and DIO's final decision will be provided along with a description of the basis for that recommendation.
- i. All GMEC subcommittee members present during the executive session will be allowed one (1) day to review and comment on the written statement.
- j. The final GMEC recommendation, and the documentation presented by both parties at the time of the GMEC review, will be forwarded to the Dean or their designee.
- k. The decision of the Dean or designee will be provided in writing to the resident, Program Director and DIO.
 - l. If the grievance is successful, the trainee may be required to make up missed clinical time.

VIII. Procedure for Summary Suspension

- a. Following a notification of summary suspension from the training program, the resident should promptly discuss the suspension decision with their program director and department leadership. The resident will be responsible for completing all requests from the program director such as a drug screen or mental health evaluation, if needed, to complete the program's review.
- b. If the matter is not satisfactorily resolved after review by the department and training program, the resident has the right to request to meet with the Senior Associate Dean to review the concern.

Definitions

A *resident* is an IUSM resident or fellow, or a non-IUSM resident or fellow rotating through IUSM who provides clinical care as part of a GME program.

Structured improvement plans (SIP) are established when written, verbal or personal observation indicates a competency-based or performance issue. At our institution, SIPs are defined to be part of the training process.

With few exceptions, if SIPs are completed successfully, we do not consider them to be reportable to licensing bodies or future employers.

Probation refers to a formal notification of performance deficiencies with specific outcomes that must be met to remain in the training program. Probation is reportable to licensing bodies and future employers.

Non-promotion refers to a delay in advancement to the next post-graduate training year. This may happen when a resident has not developed the skills necessary to take on the responsibilities needed to perform the duties of the next PGY-level.

Non-reappointment refers to a decision not to renew a resident's letter of appointment for a subsequent year of training resulting in its expiration at the end of the current term.

Termination refers to revoking or terminating a resident's letter of appointment prior to the end of a current letter of appointment.

Grievance shall mean any dispute concerning the resident's disciplinary action, notice of non-reappointment, academic probation, termination, or the interpretation or application of any rule, regulation, letter of appointment, practice or policy of IUSM or its affiliated hospitals.

Summary suspension shall mean immediate removal from the clinical and/or learning environments.

Fitness for duty refers to the physical and/or mental ability of an employee to safely perform the essential functions of his or her job, as stated in the Americans with Disabilities Act.

Implementation

The Designated Institutional Official (DIO) for GME is responsible for implementation of this policy.

Oversight

Policy authority for this document resides with the Graduate Medical Education Committee. The DIO and the Graduate Medical Education Committee are responsible for oversight. This policy will be reviewed every three years or more often if deemed necessary.

Forms

[Structured improvement plan letter template](#)

History

1. Policy gme-adm-0016 approved by GMEC and published on 15 May 2013.
2. Policy reviewed, updated, and approved by GMEC on 15 May 2013.
3. Policy updated for formatting 05 March 2018.
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