

Medical Education Policy: Discipline – Appeal Process

Facility: CMC
Origin Date: July 2009
Revision Date: August 2019
Sponsor: GMEC

1. PURPOSE:

Carilion Clinic recognizes a Resident's right to appeal actions under specific circumstances. This Policy describes the appeal process for designated actions.

2. SCOPE:

This Policy applies to all Accreditation Council on Graduate Medical Education (ACGME), Council on Podiatric Medical Education (CPME), and Commission on Dental Accreditation (CODA) accredited post-graduate training programs sponsored by Carilion Medical Center (CMC).

3. DEFINITIONS:

- 3.1 Ad hoc Subcommittee of the GMEC (Subcommittee) is a committee appointed to hear appeals, when allowed by this policy (see Appeal policy). The members of the Subcommittee shall be appointed by the Administrative Director of Medical Education (ADME) and shall consist of:
- 3.1.1 two (2) program directors from non-involved Programs, one of whom shall be assigned to Chair the Subcommittee,
 - 3.1.2 one (1) associate program director or faculty member from a non-involved Program, and
 - 3.1.3 two (2) residents from a non-involved Program.
 - 3.1.4 The ADME, DIO, and DOME may assist the Subcommittee and may be present at all meetings of the Subcommittee.
- 3.2 Administrative Director of Medical Education (ADME): the individual appointed by the Institution to provide oversight and support for the administrative functions of the Office of Medical Education.
- 3.3 Appeal is a formal process whereby a Resident requests an opportunity to contest a prior formal action (see Appeal policy).
- 3.4 Business Days refers to Monday through Friday and excludes holidays recognized by Carilion Clinic.

- 3.5 Chief Medical Officer (CMO): the lead administrative physician appointed by Carilion Clinic to oversee medical affairs.
- 3.6 Designated Institutional Official (DIO) is the individual appointed by the Institution to provide oversight, administration, and accountability to Carilion Clinic's accredited Graduate Medical Education programs.
- 3.7 Graduate Medical Education Committee (GMEC) is the committee authorized by the Board of Directors and administration of Carilion Medical Center, to advise, monitor and evaluate all aspects of residency education. Membership is determined by GMEC policy.
- 3.8 Institution is Carilion Medical Center
- 3.9 Program or Residency Program: refers to an accredited post-graduate medical education program based at Carilion Medical Center.
- 3.10 Program Director is the lead physician / clinician appointed by the Institution and registered with the appropriate ACGME Residency Review Committee or other accrediting body to provide academic and administrative oversight of the respective Residency Program.
- 3.11 Resident refers to all interns, residents, and fellows participating in a Carilion Clinic accredited post-graduate medical education program.

4. PROCEDURE:

4.1 General Guidelines:

- 4.1.1 The timeframes described in this Policy are to be followed in the normal course, but they may be altered or adjusted for good reason. Additionally, the parties may agree in writing to waive a particular timeframe.
- 4.1.2 If hand delivery of a document is utilized under this Policy, the person delivering the document will ask the recipient of the document to sign and date the document to acknowledge receipt. If the recipient refuses to do so, the person delivering the document will note recipient refused to sign and date at ____ (time) on _____ (date).
- 4.1.3 If written notice is to be provided or delivered under this Policy, it may be accomplished by hand delivery, via delivery of the USPS or via overnight delivery by a reputable overnight delivery organization. Notice will be deemed to be received on the date of hand delivery, on the day delivered by the overnight delivery organization or on the second day following deposit of the written notice with the USPS. The most recent address on record should be used for USPS and overnight delivery.

4.2 Appeal Mechanism:

4.2.1 Notification of the Intent to Appeal:

- 4.2.1.1 The Resident must provide written notification to the DIO of the intent to exercise his or her right to appeal within five (5) business days after his or her receipt of written notification of a disciplinary action subject to the appeal process.
- 4.2.1.2 Failure to provide proper written notification will be deemed a waiver of any right to appeal.

4.2.2 Appeal to a Subcommittee:

- 4.2.2.1 The following disciplinary actions may be appealed to a Subcommittee:

- 4.2.2.1.1 Non-Renewal of Contract

- 4.2.2.1.2 Institutional Probation

- 4.2.2.2 The ADME shall appoint the members of the Subcommittee
- 4.2.2.3 The Subcommittee will convene to conduct an appeal hearing within ten (10) business days after receipt of the written intent to appeal.
- 4.2.2.4 The ADME shall provide written notification to the Resident as to the date, time, and location of the appeal hearing at least five (5) business days prior to the hearing.
- 4.2.2.5 The Resident's Program Director will present the course of events with documentation in support of the disciplinary action to the Subcommittee. The Program Director may ask other individuals to be present and speak during the hearing.
- 4.2.2.6 The Resident will be provided an opportunity to present argument with documentation in support of his or her appeal of the disciplinary decision. The Resident shall have the obligation to persuade the Subcommittee that the action lacks any factual basis or that it is arbitrary,

unreasonable, or not in compliance with applicable medical education or Institutional policies. The Resident may ask other individuals to be present and speak during the hearing.

4.2.2.7 Assistance by counsel:

4.2.2.7.1 The Resident may be assisted by counsel of his or her own choosing and expense during an Appeal. Counsel may not actively participate in the proceeding but may be present for the purpose of advising and consulting.

4.2.2.7.2 The Resident must notify the ADME in writing of his or her intent to be assisted by counsel at least three (3) business days prior to the hearing. Failure to provide written notification in the above time frame will be deemed a waiver of the right to be assisted by counsel.

4.2.2.7.3 The Institution may also have counsel of its own choosing present for advice and consultation.

4.2.2.7.4 If a person desires to be assisted by counsel, the respective person must obtain counsel who is able to be present at the appeal hearing date and time set by the Subcommittee.

4.2.2.8 Documentation of the Appeal Hearing: A record of the hearing may be made by such method as shall be determined by the ADME.

4.2.2.9 Decision of the Subcommittee:

4.2.2.9.1 The Chair of the Subcommittee shall submit a written decision to the DIO within five (5) business days of the hearing.

4.2.2.9.2 Non-renewal of Contract: the Subcommittee may accept or reject the non-renewal action.

4.2.2.9.3 Institutional Probation: the Subcommittee may accept, reject, or modify the terms of probation.

4.2.2.9.4 The DIO will distribute written copies of the decision to the Resident, the Program Director, and the department chair.

4.2.2.9.5 **The decision of the Subcommittee will be final and binding upon all parties.**

4.2.3 Appeal to a Panel of Department Chairs (Panel):

- 4.2.3.1 The following disciplinary action may be appealed to a Panel:
 - 4.2.3.1.1 Dismissal
- 4.2.3.2 The DIO will notify the Chief Medical Officer (CMO) of the request for an appeal to the Panel within five (5) days of the request for an appeal. The Appeal Hearing must be convened within ten (10) business days of the CMO notification.
- 4.2.3.3 The DIO will appoint a Panel of three Carilion Clinic Department chairs. The chair of the department which sponsors the resident's training program cannot serve on this panel. The CMO is to oversee the actions of the Panel but will not be a voting member.
- 4.2.3.4 The Panel will convene to conduct an appeal hearing within ten (10) business days of notification of the CMO.
- 4.2.3.5 Assistance by counsel:
 - 4.2.3.5.1 The Resident may be assisted by counsel of his or her own choosing and expense during an Appeal. Counsel may not actively participate in the proceeding but may be present for the purpose of advising and consulting.
 - 4.2.3.5.2 The Resident must notify the ADME in writing of his or her intent to be assisted by counsel at least three (3) business days prior to the hearing. Failure to provide written notification in the above time frame will be deemed a waiver of the right to be assisted by counsel.
 - 4.2.3.5.3 The Institution may also have counsel of its own choosing present for advice and consultation.
 - 4.2.3.5.4 If a person desires to be assisted by counsel, the respective person must obtain counsel who is able to be present at the appeal hearing date and time set by the Panel.
- 4.2.3.6 The Resident's Program Director will present the course of events with documentation in support of the disciplinary action to the Panel. The Program Director may ask other individuals to be present and speak during the hearing.
- 4.2.3.7 The Resident will be provided an opportunity to present argument with documentation in support of his or her appeal of the disciplinary decision. The Resident shall

have the obligation to persuade the Panel that the action lacks any factual basis or that it is arbitrary, unreasonable, or not in compliance with applicable medical education or Institutional policies. The Resident may ask other individuals to be present and speak during the hearing.

- 4.2.3.8 The Panel will complete its review and develop a written decision to accept or reject the Dismissal within five (5) business days after the appeal hearing.
- 4.2.3.9 The written decision will be distributed to the DIO, the Resident, the Program Director, and the department chair.
- 4.2.3.10 The decision of the Panel will be final and binding upon all parties.

Name	Title	Dept./Committee	Date
Daniel Harrington, MD	DIO	GMEC	July 21, 2009
Daniel Harrington, MD	DIO	GMEC	June 19, 2012
Donald Kees, MD	DIO	GMEC	July 16, 2013
Donald Kees, MD	DIO	GMEC	January 19, 2016
Donald Kees, MD	DIO	GMEC	April 18, 2017
Donald Kees, MD	DIO	GMEC	August 20, 2019