

Administrative Regulation 5:5

Appeal Procedure for Graduate Medical Education Residents and Fellows

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I. Introduction

This *Administrative Regulation* establishes the appeal procedure for Graduate Medical Education (GME) Residents and Fellows who wish to appeal a Graduate Medical Education Program decision that adversely affects the individual's standing as a GME Resident or Fellow.

II. Policy

It is the intention of the University to deal fairly with GME Residents and Fellows, i.e., those individuals with a recognized professional degree in one of the health professions engaged in postgraduate Graduate Medical Education (GME) training. GME Residents and Fellows are defined in *Administrative Regulation 5:4, Enrollment of Graduate Medical Education Residents and Fellows.*)

In the normal course of working together, problems in connection with the working relationship can arise. Mechanisms to raise and resolve such issues are outlined in the Graduate Medical Education Policy and Procedures Manual. In most cases, the problem can and should be resolved at the level of the program. However, if a GME Resident or Fellow faces formal action in relationship to their academic or clinical performance, including non-promotion, probation, suspension, non-renewal of contract, or termination and a mutually satisfactory solution cannot be worked out at the level of the program, the GME Resident or Fellow must be given an opportunity to appeal such actions pursuant to this *Administrative Regulation* without fear of intimidation or retaliation.

The procedures outlined in this *Administrative Regulation* are designed to provide a process for a GME Resident or Fellow who wishes to appeal a Graduate Medical Education program decision that will adversely affect the individual's standing as a GME Resident or Fellow or University employee. All appeals will be acted upon in a prompt and equitable manner without placing an unreasonable burden on the University's resources and personnel.

III. Appeal Procedure

- A. The GME Resident or Fellow may appeal a program decision or action that adversely affects the individual's standing as a GME Resident or Fellow or University employee to the Graduate Medical Education Committee (GMEC), but only if the program decision is non-promotion, probation, suspension, non-renewal of appointment, or dismissal/termination. The appeal must be submitted in writing to the Senior Associate Dean for GME / Accreditation Council for Graduate Medical Education (ACGME) / Designated Institutional Official (DIO), (hereafter referred to as the "Senior Associate Dean for GME") within thirty (30) calendar days of the action the GME Resident or Fellow is appealing.
- B. In addition to the written notice of appeal, the GME Resident or Fellow must indicate in writing whether they intend to appear to present their case at a hearing of the GMEC Appeal Committee. If the GME Resident or Fellow intends to appear, the additional procedures for the hearing contained in the Appendix to this regulation will apply.
- C. If a GME Resident's or Fellow's appeal raises a complaint related to harassment or discrimination, or sexual misconduct, the Senior Associate Dean for GME must refer the allegation to the Office of Institutional Equity and Equal Opportunity (see Administrative Regulation 6:1 and Administrative Regulation 6:2). Once the Office of Institutional Equity and Equal Opportunity completes its investigation and issues its report and recommendation, the GME Appeal procedure will continue; however, there may be instances where the processes are parallel.
- D. The appeal must be reported to the GME Resident's or Fellow's program director and department chair or other appropriate unit leader sharing oversight responsibility for the training program. The Senior Associate Dean for GME, who is also the Chair of the GMEC, must appoint an Appeal Committee and designate a chair. The Chair is responsible for facilitating the meeting and may designate an alternate Chair when necessary. The Appeal must be comprised of at least five (5) members, which include:
 - 1. Designated Chair (*ex-officio*, non-voting). In the event of a tie the chair will vote;
 - 2. At least three (3) impartial members who are members of units outside the GME Resident or Fellow's department and are program directors or associate program directors;
 - 3. At least one (1) impartial resident or fellow who has been with UK GME for at least one year, and is a member of a unit outside the GME Resident or Fellow's department.
- E. The Senior Associate Dean for GME, will be afforded a reasonable amount of time to appoint the Appeal Committee with the goal of doing so as quickly as is feasible for participants. The Appeal Committee members may be chosen from members or non-members of the GMEC. The Senior Associate Dean for GME must notify the appealing GME Resident or Fellow of the members.
- F. Any member of the Appeal Committee who has a conflict of interest must immediately recuse themselves by notifying the Senior Associate Dean for GME of their conflict of interest and intent to recuse. Conflicts of interest include, but are not limited to, personal knowledge of the facts and circumstances of the allegations or having a family, personal, faculty/student, or professional relationship with either the appealing GME Resident or Fellow, or the involved faculty and administrators.
- G. The GME Resident or Fellow may challenge any Appeal Committee Member for cause if there is a belief that a member of the Committee has a conflict of interest. Challenges to the Appeal Committee members must be made no later than five (5) business days of receiving notification of the Committee membership. The Senior Associate Dean for GME will determine if cause exists and must excuse any member where Cause exists.

If a GME Appeal Committee member recuses themselves or if the Senior Associate Dean for GME excuses a member for cause, the Senior Associate Dean for GME will select another person to serve on the Committee.

- H. If the GME Resident or Fellow does not request a hearing, the Appeal Committee must investigate the appeal, accumulate and study the facts in the case, and notify the Committee appealing GME Resident or Fellow in writing of the Committee's findings and decision within ten (10) business days (Saturdays, Sundays, and holidays excluded) after initiation of committee appointment, unless extended for cause by the Senior Associate Dean for GME. The Appeal Committee must also notify the Senior Associate Dean for GME and the GMEC of the decision. If a hearing is requested, the procedures set forth in the Appendix must be followed.
- I. The decisions of the GME Appeal Committee are final.
- J. A copy of the Appeal Committee's written findings and decision must be forwarded to the program director, the department chair, and/or other appropriate unit leader sharing oversight responsibility for the training program, and to the Graduate Medical Education office for filing in the GME Resident or Fellow's official Graduate Medical Education file.
- K. In any case involving discrimination or harassment, copies of the Appeal Committee's findings and final decision also must be forwarded to the Office of Institutional Equity.
- L. If a resident or fellow believes that a violation of academic freedom significantly contributed to their termination, they have an opportunity to be heard by the University Senate Advisory Committee on Privilege and Tenure in accordance with *Governing Regulation X.D.*

References and Related Materials

Governing Regulations X, Regulations Affecting Employment

Administrative Regulation 5:4, Enrollment of Graduate Medical Education Residents and Fellows

Administrative Regulation 6:1, Policy on Discrimination and Harassment

Administrative Regulation 6:2, Policy and Procedures for Addressing and Resolving Allegations of Sexual Harassment Under Title IX and Other Forms of Sexual Misconduct

Behavioral Standards in Patient Care

[Graduate Medical Education Policy and Procedures Manual](#)

Revision History

8/1/1977, 7/1/1983, 4/30/1993, 10/19/2000, 6/30/2007, 2/21/2014, 7/6/2021, 4/5/2023

For questions, contact: [Office of Legal Counsel](#)

Appendix

GME APPEAL COMMITTEE HEARING PROCEDURES

1. The faculty member or administrator responsible for initiating the action or complaint that led to the GME program's adverse decision regarding the GME Resident or Fellow should attend the hearing if possible. If the faculty member or administrator cannot attend or chooses not to do so, the hearing may proceed based on any written information submitted by the faculty member or administrator.
2. The GME Resident or Fellow may have an advisor of their own choice at the hearing. The role of the advisor is to provide advice to the GME Resident or Fellow who has requested his/her presence. The advisor may speak on behalf of the GME Resident or Fellow, make an opening and closing statement, and examine and cross examine witnesses. The Chair has the authority to have a question re-worded or not allow the questions based on redundancy or relevance. The GME Resident or Fellow is responsible for assuring the advisor is present for the hearing. The hearing will not be delayed if the advisor is not present.
3. If the GME Resident's or Fellow's advisor is an attorney (licensed or unlicensed), the GME Appeal Committee Chair must be notified in writing at least five (5) business days prior to the date of the hearing.
4. An attorney representing the University will be available to advise the GME Appeal Committee, and may speak on behalf of the University, make an opening and closing statement, and examine and cross examine witnesses.
5. Because hearings are administrative in nature, not legal proceedings, the GME Appeal Committee is not bound by technical rules of evidence usually employed in legal proceedings but may consider any evidence it deems relevant or appropriate.
6. The GME Resident or Fellow and the GME program must notify the GME Appeal Committee Chair at least five (5) business days prior to the date of the hearing if any witnesses will be present at the hearing. The GME Resident or Fellow and the GME program are responsible for assuring their witnesses are present for the hearing. The hearing will not be delayed if witnesses are not present. All parties will be notified of witnesses.
7. The GME Resident or Fellow, faculty member, or administrator may submit written material to the Appeal Committee, through the Chair, at least seven (7) calendar days prior to the hearing.
8. The GME Resident or Fellow will not be compelled to give testimony that might tend to be incriminating. Refusal to do so will not be considered evidence of responsibility or guilt.
9. The GME Resident or Fellow will receive written notice of the hearing date, time, and location, as well as a copy of the hearing packet at least ten (10) business days prior to the date of the hearing . Notices will be sent to the GME Resident's or Fellow's official UK email address. If the Resident or Fellow no longer has access to their UK email address, they must notify the chair immediately.
10. Hearings may be open or closed, according to the GME Resident or Fellow's choice, which must be specified in writing two (2) business days in advance. If not specified, the hearing will be closed.

11. The GME Resident or Fellow must have the opportunity to hear all witnesses.
12. The GME Appeal Committee may, at its discretion, request or receive and review additional information in addition to that provided by the GME Resident or Fellow, faculty member or administrator.
13. The GME Appeal Committee, after concluding the hearing, will reconvene in executive session to decide the appeal.
14. The GME Resident or Fellow will receive a copy of the Appeal Committee's written findings and decision within ten (10) business days of the conclusion of the hearing after the conclusion of the hearing, unless extended for cause by the Senior Associate Dean for GME.
15. The decisions of the GME Appeal Committee are final.
16. If a GME Appeal Committee is assembled to hear a case and the hearing cannot be completed in one session, that panel with the same members will hear the case through to conclusion. The continued hearing must be rescheduled as soon as practical.
17. If a GME Resident or Fellow requests a hearing and, without good cause, fails to appear or fails to advise the Chair in writing more than five (5) business days before the scheduled date of the hearing that they will not appear at the hearing, the GME Resident or Fellow will forfeit his or her opportunity for a hearing, and the Committee may proceed with its deliberations in the matter.
18. The Office of Graduate Medical Education must maintain a record of all GME Appeal Committee proceedings.