

	Name of Policy: Due Process and Resident Complaint Policy	
	Last Approval Date: November 15, 2019	Effective Date: November 15, 2019

I. PREAMBLE

The term “resident” is inclusive of all trainees at SIU SOM, whether training in a residency or fellowship program. An *Action* refers to a decision to not promote a resident to the next PGY level, to not recommend a graduating resident to sit for a specialty board examination, to suspend a resident other than for contractual or employment obligations, to not renew a resident’s contract, and/or to terminate a resident’s participation in a residency program. Actions may require disclosure to others upon request, including but not limited to privileging hospitals, licensure or specialty boards. *Due Process*, as described within, applies to Actions that are taken as a result of academic deficiencies and/or misconduct. (See Academic Deficiency Policy and Professional Conduct and Misconduct Policy) *Complaint* refers to the review of resident complaints or issues related to the work environment or the program or faculty. The goals of this policy are to:

- Provide residents an avenue for due process in the event an Action is taken
- Outline a process for submitting and processing resident grievances

II. DUE PROCESS FOR ACADEMIC MATTERS

A review of the program’s decision to take an Action for academic matters may be requested by the resident. A written request for review must be submitted to the Designated Institutional Official (DIO) within fourteen (14) days of learning of the Action. Upon a request for review, the DIO will first determine whether the matter is reviewable under this policy and if so, shall appoint a Review Committee. The Review Committee will be composed of two (2) faculty members and one (1) resident from a department or departments different than the requesting resident. The committee will make a determination whether the resident received appropriate notice of deficiency and an opportunity to correct it, and whether the decision to take the Action was thoughtfully and deliberatively made. The Review Committee will make a recommendation in this regard to the Dean of SIU SOM and the CEO/COO of the resident’s employing hospital, who will jointly render a decision. This decision will be immediately effective, binding, final, and not subject to further appeal.

Prior to the Review Committee meeting, the Office of Graduate Medical Education (OGME) will be responsible for providing a copy of the resident’s file to the committee members. The resident and/or program director are at liberty to submit any additional relevant documentation to OGME for distribution to the committee members. Patient and peer identifiers shall be removed from any documents. The committee will review the resident’s request for review, the resident’s file and any additional documentation provided (Materials).

The review meeting will be scheduled in a timely manner. If the resident fails to attend without good cause, they will have been considered to have withdrawn the request for review. If the program director fails to attend without good cause, the meeting will proceed.

The meeting will be attended by the three (3) committee members, the resident, program director and a representative of OGME. As this is an academic process, no attorneys or legal advisors will be allowed to attend. The resident may have a faculty advisor or other support person present if they so choose. This support person will not be permitted to actively participate unless requested by the chairperson of the Review Committee. The chairperson of the Review Committee will preside over the meeting, make introductions, and verify that all committee members have reviewed the Materials in advance.

The resident will be given an opportunity to describe why they believe the Action was unwarranted and the basis for the request for review. The program director will then have an opportunity to respond to or clarify issues raised in the resident's request for review. The committee members will then have an opportunity to ask final questions of the resident and program director.

The committee may interview others as they see appropriate to aid in the decision making process. If the committee identifies such individuals in advance, they will be invited to attend the meeting. Alternatively, the committee may identify individuals they need to interview after the meeting and before their deliberations. On conclusion of the committee meeting and after the committee members have had a chance to interview any other individuals they identify, the committee will deliberate without the program director and resident but with the attendance of an OGME representative.

The committee will make a written report with their recommendations, along with a discussion of the rationale for the committee's decision. The OGME will be responsible for forwarding the written report along with a copy of the Materials to the Dean and the CEO/COO of the employing hospital. The Dean and CEO/COO will review the committee's written report and Materials and jointly render a decision either upholding, overturning, or modifying the Action.

III. DUE PROCESS FOR MISCONDUCT MATTERS

A review of the decision to take an Action for misconduct matters may be requested by the resident. The review process will be the same as that for academic matters (outlined above) with the following exception: The Review Committee will make a determination whether the resident received appropriate notice, had an opportunity to be heard regarding the matter at hand, and whether the decision to take the Action was thoughtfully and deliberatively made

The procedures as outlined above shall not preempt the Medical Staff By-laws or personnel codes of the hospitals and shall not preempt or limit any right of the program or hospitals under the Agreement With Physician (resident contract) or the Impairment Policy to immediately suspend a resident.

IV. EXCEPTIONS

If a resident returns to work following treatment of an impairing condition, they will return on a Conditions of Reinstatement Letter. If they are terminated for violating any of the conditions regarding substance use, monitoring parameters, or information sharing with the monitoring body, such termination is binding and will not be eligible for review.

Residents must pass a post-offer drug test as specified by the Affiliated Hospital's substance testing program as a prerequisite of employment. A resident who fails to successfully pass the post-offer drug test shall not have the right to grieve the failure pursuant to this policy.

V. COMPLAINT MATTERS

This refers to some cause of distress (such as an unsatisfactory working condition) that is felt by the resident to present a reason for complaint, but does not involve an Action that is eligible for due process. Complaints must be dealt with in as confidential a manner as possible, and without fear of retaliation. A complaint or incident should be reported to the resident's Chief Resident or attending physician. If the Chief Resident or attending is unable to help the trainee effectively resolve the issue, the resident should take the problem to the Program Director for resolution. If satisfactory resolution is still not achieved after the Program Director has become involved, the resident may provide a written complaint report to the DIO.

The DIO will review the written complaint report and meet with the resident to ensure that steps as outlined above for Complaint Matters were followed. They may then convene other individuals deemed necessary to perform a reasonable inquiry and problem-solving process, including but not limited to the complainant's Program Director, hospital administrators, other residents or faculty, and/or human resources personnel. The DIO and other appropriate participants will investigate all the issues associated with the complaint and will provide a final and binding decision to the resident, unless precluded by confidentiality (i.e. if a complaint culminates in a personnel action against a resident, faculty or staff member).