Policy 1.410 Graduate Medical Education Committee
Section Educational Administration
Subject Adjudication of Resident/Fellow Grievances
Policy Requirements: ACGME Institutional: 4.5 ACGME Common Program Requirements: 2.6.h.
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Purpose

To outline the procedures for submitting and processing resident/fellow grievances at the program and institutional level, in order to minimize conflicts of interest.

A grievance procedure shall not be used to question a rule, procedure, or policy established by an authorized faculty or administrative body. Rather, it shall be used as due process by a resident/fellow who believes that a rule, procedure, or policy has not been followed or has been applied in an inequitable manner. An action may not form the basis of a grievance if the resident/fellow merely challenges the judgment of the faculty as medical educators in evaluating the performance of the resident/fellow.

Definitions

GME Appeals Board: A group of faculty members and residents/fellows appointed by the Dean of the College of Medicine (COM) and assembled to hear formal resident/fellow grievances.

Grievance: An expression of dissatisfaction when a resident/fellow believes that any decision, act or condition affecting his or her program of study is arbitrary, illegal, or creates unnecessary hardship. Such grievance may concern, but is not limited to, the following: duties assigned to a resident/fellow; application of hospital or college policies; questions regarding the non-reappointment, non-promotion, suspension, or dismissal of a resident/fellow; and discrimination because of race, national origin, gender, religion, age, disability or status as a disabled, or Vietnam-era veteran; subject to the exception that complaints of sexual harassment will be handled in accordance with the specific published policies of the University of Arkansas for Medical Sciences (UAMS).

Grievance Panel: Those members of the Graduate Medical Education (GME) Appeals Board selected, by a drawing, to hear a grievance, in accordance with Step II of the grievance procedure.

Grievant: Any resident/fellow submitting a grievance as defined above. For purposes of all Graduate Medical Education Committee (GMEC) policies, the term “resident” applies to interns, residents, and fellows.

Respondent: A person or persons alleged to be responsible for the violation(s) alleged in a grievance. The term may be used to designate persons with direct responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the grievance.

Working Days: Monday through Friday, excluding official UAMS holidays.

Policy

When an incident forming the basis for a grievance arises, the grievant must follow the procedure outlined below. Each grievance shall be handled promptly and impartially, without fear of coercion, discrimination, or reprisal. Each participant in a grievance shall do his or her part to protect this right.

No resident, fellow, faculty member, member of the Grievance Panel or GME Appeals Board, administrator, or witness shall suffer loss of compensation or leave time for the time spent in any step of this procedure.

Records shall be kept of each grievance process. These records shall be confidential to the extent allowed by law, and shall include, at a minimum: the written grievance complaint filed by the grievant, the written response filed by the respondent, the recording and documents of the hearing, the written recommendation of the Grievance Panel, the results of any appeal, the decision of the Dean, and any other material designated by the Dean or the Dean's designee. A file of these records shall be maintained in the office of the Executive Associate Dean for GME for three years after the final date of resident's/fellow's employment.

For purposes of the dissemination of grievance precedents, separate records may be created and kept which indicate only the subject matter of each grievance, the resolution of each grievance, and the date of the resolution. These records shall not refer to any specific individuals, and they may be open to the public in accordance with the Arkansas Freedom of Information Act or pertinent Federal laws.

Procedure

Step I: Initial Attempt of Resolution

A. The grievant must submit a written statement to the residency (fellowship) Program Director specifying the violation(s) alleged, the reason for the grievant s belief that he or she is aggrieved, and the remedy sought. This written statement must be received by the Program Director within ten (10) working days following the incident which forms the basis for the grievance.

B. Within ten (10) working days of receipt of the written statement, the Program Director and Departmental Chairperson will attempt to resolve the grievance by a discussion with the grievant. The Program Director and Departmental Chairperson have the discretion, after discussion with the grievant, to discuss the grievance with the respondent in an effort to resolve the grievance.

C. If the grievance is satisfactorily resolved by this discussion, the terms of the resolution shall be reduced to writing and shall be signed by the grievant, the Program Director, and the respondent (if the respondent has participated in any discussions with the Program Director in an effort to resolve the grievance and is affected by the resolution).

D. This initial attempt of resolution must conclude within ten (10) working days of the Program Director's initial discussion with the grievant. At the end of this ten-day period, if the grievance cannot be resolved, the grievant can immediately proceed to Step II, presentation of a formal grievance to the Dean of the COM.

Step II: Formal Grievance to the Dean

A. Filing a grievance:

1. Grievances submitted to the Dean of the COM shall be in writing and shall provide the following information: name and address of the grievant; nature, date, and description of the alleged violation(s); name(s) of person(s) responsible for the alleged violation(s); requested relief for corrective action; and any background information the grievant believes to be relevant.

2. A grievance must be submitted to the Dean within ten (ten) working days of the completion of the initial attempt of resolution, outlined in Step I above.

B. Immediately upon receipt of a formal grievance, the Dean will give the respondent a copy of the grievance and will direct the respondent to submit to the Dean a written response to the charges within ten (10) working days. The respondent will be specifically warned not to retaliate against the grievant in any way. Retaliation will subject the respondent to disciplinary action.

C. Following receipt of the written response, the Dean may elect to review and decide the issue, or the Dean may refer the issue to the Appeals Board for a hearing. If the Dean decides the issue, the decision shall be final, and there shall be no appeal. If the Dean refers the issue to the Appeals Board, the grievance will be heard pursuant to the Pre-Hearing Procedures and Hearing Procedures listed below.

D. Pre-Hearing Procedures:

1. Selection of Grievance Panel: When a grievance is referred to the GME Appeals Board, a Grievance Panel, composed of two (2) residents/fellows and four (4) faculty shall be selected as follows: The Dean, or the Dean's designee, and the grievant will review the membership of the GME Appeals Board. The Dean, or the Dean's designee, in that person's sole discretion, shall remove any member who may be considered inappropriate for the hearing (e.g., a resident, fellow, or faculty member directly involved in the issue being appealed should not sit on the panel for that complaint). The names of the remaining members will then be written on tabs of paper, folded, and randomized by mixing. The grievant will draw names from the container. The first two (2) residents/fellows and first four (4) faculty names will constitute the Grievance Panel, provided they are available to attend the Hearing. The third resident/fellow name and the fifth faculty name drawn are the first resident/fellow and faculty alternates, respectively; the fourth resident/fellow name and the sixth faculty name drawn are the second resident/fellow and faculty alternates, respectively, etc., until all resident/fellow and faculty names are listed in a sequence of priority.

2. Scheduling of Hearing: The hearing will be conducted no sooner than fifteen (15) working days and no later than twenty (20) working days after the drawing unless the Dean determines there is a specific reason why another time must be selected.

3. Representation: The grievant and the respondent may have one (1) person, who may be an attorney, to assist in the initiation, filing, processing, or hearing of the formal grievance. However,

this person may not address the Grievance Panel, speak on behalf of the grievant or respondent, question witnesses, or otherwise actively participate in the hearing. The Grievance Panel may also be assisted and advised by University counsel at its discretion.

4. Evidence: No later than five (5) working days prior to the hearing, the grievant and the respondent shall provide the Dean, or the Dean's designee, with all documents to be used and relied upon at the hearing and, also, with the name, address, and telephone number of any representative and witnesses. There will be a simultaneous exchange of this information between the parties, which will be facilitated by the Dean, or the Dean's designee, five (5) working days before the date of the hearing. Evidence not exchanged five days prior to the hearing will not be allowed to be submitted thereafter without a showing of good cause.

5. Information to the Grievance Panel and Election of Chairperson: No later than three (3) working days prior to the hearing, the Dean shall assemble the six members of the Grievance Panel. The Dean should provide the Grievance Panel with the documents and information submitted by the parties (as specified in paragraph 4 above), confirm the date of the hearing, and withdraw from the room. The Grievance Panel should convene briefly for the sole purpose of electing a faculty member as chairperson and deciding whether the Grievance Panel requests the assistance of University Counsel. The substance of the grievance shall not be discussed at this initial meeting, and neither the grievant, the respondent, nor their respective representatives are permitted to attend.

E. Hearing Procedures:

1. Record of the Hearing: The hearing will be recorded by recording devices supplied by UAMS. These recordings shall be maintained for a period of five (5) years after resolution of the grievance. The grievant or respondent may obtain a copy of the recording from any recorded hearing, at the requesting party's expense. The deliberations of the Grievance Panel will not be recorded.

2. Dean's Announcement: At the beginning of the hearing, the Dean will announce the date, time, place, and purpose of the hearing, and will ask the members of the Grievance Panel to identify themselves by name and department. The grievant and the respondent will then identify themselves by name and department. Finally, any representative accompanying the grievant or the respondent shall identify himself or herself by name and title. The Dean will then give the Grievance Panel its charge. Following the charge, the Dean will withdraw from the room.

3. Private Hearing: The hearing shall be conducted in private. Witnesses shall not be present during the testimony of any party or other witness. Witnesses shall be admitted for testimony only and then asked to leave. The grievant and the respondent may hear and question all witnesses testifying before the Grievance Panel.

4. Presentation of Case: The grievant and respondent shall be afforded reasonable opportunity for oral opening statements, closing arguments, their own testimony, and presentation of witnesses and pertinent documentary evidence, including written statements.

5. Grievance Panel Rights: The Grievance Panel shall have the right to question any and all witnesses, to examine documentary evidence presented, and to summon other witnesses or review other documentation as the Grievance Panel deems necessary. The Grievance Panel has the right to limit testimony and presentation of other evidence to that which is relevant to the violation(s)

alleged and to further limit testimony and other evidence that is cumulative and unnecessary.

6. Grievance Panel Deliberation: After the hearing is concluded, the Grievance Panel shall convene to deliberate in closed session and arrive at a majority recommendation. The Grievance Panel shall make its determination of whether or not a rule, procedure or policy was not followed or was applied in an inequitable manner based upon the evidence presented at the hearing, which is relevant to the issue(s) before the Grievance Panel. The Grievance Panel may make recommendations for resolution of the dispute. Neither the grievant, the respondent, nor their representatives may be present during the Grievance Panel deliberations.

7. Transmittal of the Recommendation: Within seven (7) working days after the hearing is concluded, the Grievance Panel shall transmit a written copy of its recommendation to the Dean. The Dean will then mail, by certified mail, return receipt requested, a copy of the written document to the grievant and respondent at addresses previously provided by the grievant and the respondent. The Dean may also submit the document via e-mail or by other written means of notification.

8. Appeal of Recommendation of the Grievance Panel:

If either the grievant or the respondent wish to appeal the recommendation of the Grievance Panel, the grievant or respondent shall, within five (5) working days of the receipt of the recommendation, appeal the grievance recommendation to the Dean. The appeal shall be in writing, and it shall be based on one of the following: a substantial mistake of fact occurred, a fundamental misinterpretation of official policies is evident, or a significant procedural defect took place. These are the only grounds for contesting the determination of the Grievance Panel. Within five (5) working days of this appeal, the Grievance Panel will reconvene, in private, to consider whether there is merit to the appeal, review its previous determination, and revise it if appropriate. No new evidence or testimony shall be introduced at this time. Within two (2) working days of its having reconvened, the Grievance Panel will present its determination, revised or unchanged, in writing to the Dean. Within five (5) working days of receipt of the determination from the Panel, the Dean may accept it, amend it, reverse it, or refer it back to the Panel for reconsideration. The grievant and the respondent shall be notified in writing of the Dean's decision by certified mail, return receipt requested. The Dean may also submit the document via e-mail or by other written means of notification. The decision of the Dean shall be final, and there shall be no appeal.

If the Dean receives no appeal, by either the grievant or the respondent, within the five (5) working day period described above, the Dean may consider the recommendation at the end of that time period. The Dean may accept the Grievance Panel recommendation, amend it, reverse it, or refer the grievance back to the Grievance Panel for reconsideration. The grievant and the respondent shall be notified in writing of the Dean's decision by certified mail, return receipt requested. The Dean may also submit the document via e-mail or by other written means of notification. The decision of the Dean shall be final, and there shall be no appeal.