

# GRADUATE MEDICAL EDUCATION

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## DIVISION

# POLICIES AND PROCEDURES



Feb. 2020

Presented by: The Florida State University College of Medicine



# FSU College of Medicine Graduate Medical Education (GME)

## *Institutional Sponsorship Policies and Procedures*

Rev. Feb. 2020

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## POLICY:

It is the policy of the Florida State University College of Medicine Graduate Medical Education (GME) that each GME program must develop criteria by which to determine when residents or fellows are eligible for promotion to the next level of training. GME is based upon a foundation of graduated level of responsibility. As the resident gains knowledge, judgement and skill it is anticipated that the resident will progress toward being able to be an independent practitioner. Residents will only be advanced to the next higher level of responsibility upon successful completion of the program's goals and objectives in the six core competencies as defined by the milestones and evaluated by faculty and program directors.

These goals must be distributed to all trainees. Residents must be informed of the expectations for advancement or completion of training. Residents should be given timely feedback on performance; they should also be notified of deficiencies in performance. Each program must distribute these criteria for advancement and be sure that the residents are informed of these expectations. Programs must periodically review the appropriateness of these competency based criteria.

Resident performance will be evaluated by the program's faculty, clinical competency committee, and program director, in accordance with the program's policies. Residents will demonstrate appropriate progression on specialty specific milestones.

Before advancement from the PGY-1 year to the PGY-2 year of training, all residents must have successfully passed USMLE or COMLEX Step 3. Documentation of successful passage of Step 3 must be provided to the residency program office. Failure to do so will result in the resident not receiving a contract for the PGY-2 year.

Contracts will be offered for a period of twelve months. This time interval for training at a given postgraduate level may be extended by the program director due to remediation, probation or leave of absence. It is expected that contracts will be renewed to allow residents to complete the number of years specified for training in the specialty, if the resident continues to perform satisfactorily, in accordance with program expectations.

If the program determines that a resident does not meet expectations to be promoted to the next level of training, then the program director must notify the resident in writing of his/her deficiencies and the reason for not being promoted, preferably at least four months prior to the start of the next academic training year. However, if the primary reason(s) for the non-renewal occurs within four months prior to the end of the agreement, residents will be provided with as much written notice of the intent not to renew as the circumstances will reasonably allow, prior to the end of the agreement. In addition, if a resident's contract is not renewed, the resident should also be notified in writing of the reasons for nonrenewal, preferably at least four months prior to the start of the next academic training year. Non-renewal of a resident contract or dismissal of a resident will be in accordance with the policy on due process.

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## **Section III: Equal Opportunity / Harassment / Corrective Actions**

### **3.1 POLICY: ACCOMMODATION OF RESIDENTS/FELLOWS WITH DISABILITIES**

## PURPOSE:

The purpose of this policy is to outline the process whereby a resident/fellow in a graduate medical education (GME) program sponsored by the FSU College of Medicine may request accommodation for disability.

## DEFINITION:

The Americans with Disabilities Act (ADA) defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability. The ADA also makes it unlawful to discriminate against a person based on that person's association with a person with a disability.

See **Specific Authority** 3.2 Policy

## POLICY:

The Florida State University (FSU) embraces the value of increasing knowledge and awareness through diversity, which includes administration of the ADA program. This program ensures that faculty, staff, residents, fellows, students and visitors with disabilities are included in the mainstream of program life. As a public entity, FSU is required by Title II of the ADA to make all of its activities, programs and services equally available to persons with disabilities. Our goal is to ensure a quality, educational and work environment in conjunction with our affiliated clinical institutions.

The program director and DIO will review the written request for accommodation. If it is determined that additional medical information is needed, the resident/fellow will be provided with any forms/questionnaires necessary for his/her health care provider to complete. The Residency Coordinator will assist in the evaluation of the information to determine eligibility within the guidelines of ADA.

The program director and DIO will then coordinate with the necessary institutional staff and the resident/fellow to determine whether the requested accommodation will be effective, reasonable, and enable the resident/fellow to perform the essential functions of the position and achieve the essential educational goals and program objectives, or make a good faith effort to negotiate another accommodation. The Residency Coordinator will follow-up on resident's/fellow's status/progress on an annual basis, or earlier as need arises.

A request for accommodation may be made at any time during residency/fellowship training. In order for the resident/fellow to receive maximum benefit from his/her residency/fellowship training time, requests for accommodation should be made as early in the training process as possible.

All medically-related information will be kept confidential and maintained separately from other resident/fellow records in compliance with HIPAA. However, supervisors and managers may be advised of information necessary to make the determinations they are required to make in connection with a request for an accommodation. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or if any specific procedures are needed in the case of fire or other evacuations. Government officials investigating compliance with the ADA may also be provided relevant information as requested. Form ADA-99 and attached documentation submitted to the Residency Coordinator will be maintained in a confidential manner in accordance with applicable federal and state mandated retention schedules.

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### **3.2 POLICY: EQUAL OPPORTUNITY | NON-DISCRIMINATION – PROHIBITED HARASSMENT**

#### **PURPOSE:**

Florida State University (FSU) is an equal opportunity employer and educational provider committed to a policy of non-discrimination for any member of the University's community on the basis of race, creed, color, sex, religion, national origin, age, disability, genetic information, veterans' status, marital status, sexual orientation, gender identity, gender expression, or any other legally protected group status. This policy applies to faculty, fellows, residents, staff, students, visitors, applicants, and contractors in a manner consistent with applicable laws, regulations, ordinances, orders, and University policies, procedures, and processes.

#### **POLICY:**

FSU expressly prohibits unlawful discrimination, harassment, or retaliation, whether in assumption, attitudes, acts, or policies. Conduct that intimidates by threat, brings about adversity, or creates a hostile environment, is contrary to the University's commitment of maintaining a harmonious, high performance work and educational environment. The FSU Graduate Medical Education Office and its hospital/clinical affiliates affirm they will not tolerate discrimination against any faculty, fellow, resident, student or staff.

Retaliation against an individual, who in good faith brings a discrimination or harassment complaint, participates in the investigation of a complaint, or engages in some other protected activity, is expressly prohibited and will be regarded as a separate and distinct cause for discipline under these procedures:

#### ***SPECIFIC AUTHORITY***

The Americans with Disabilities Act of 1990  
The Americans with Disabilities Act Amendments Act of 2008  
The Rehabilitation Act of 1973, Section 503-504  
The Federal Civil Rights Act of 1964, Titles VI-VII  
The Federal Civil Rights Act of 1991  
The Education Amendments of 1972, Title IX  
The Equal Pay Act of 1963  
The Pregnancy Discrimination Act of 1978  
The Age Discrimination in Employment Act of 1967  
The Vietnam Era Veterans' Readjustment Assistance Act  
The Uniformed Services Employment and Reemployment Rights Act  
The Genetic Information Nondiscrimination Act of 2008  
Executive Order 11246  
Florida Statute Chapter 760.10, Florida Civil Rights Act of 1992  
Florida Statute Chapters 119.071, 295.07, and 1012.91  
FSU Regulation FSU-4.013  
Architectural Barriers Act of 1968  
Florida Building Code, Chapter 11 Florida Accessibility Code for Building Construction

#### **DEFINITION OF PROHIBITED HARASSMENT:**

Prohibited Harassment is a form of discrimination consisting of verbal or physical behavior which is:

- Unwelcome – Conduct is unwelcome if it is initiated by force, threat or without the full, informed consent of all parties.
- Based on a protected class (i.e., race/ethnicity, color, religion, disability, sex, sexual orientation, age, national origin, or veteran status, genetic information).
- Severe or pervasive enough to create a hostile environment or negatively impact academic or job performance:

- Behavior must either be severe or pervasive to constitute prohibited behavior. Unless the conduct is quite severe (e.g., form of assault) a single incident of offensive behavior is generally not considered prohibited harassment. However, it may constitute inappropriate, unprofessional behavior and result in disciplinary action.
- The more severe the behavior, the fewer instances need occur for it to become prohibited harassment. At the same time, the frequency of less severe offensive behavior could also result in prohibited harassment. A number of relatively minor incidents (e.g., repeatedly telling unwelcome jokes) could rise to the level of harassment if the frequency of the incidents create a hostile learning or working environment.

#### **OBJECTIVE:**

The objective of this policy is to establish complaint procedures for faculty, fellows, residents, staff, students, visitors, applicants, and contractors who believe a harassing or discriminatory act has occurred. Upon submission of a complaint to the appropriate investigating authority, an impartial review will be conducted.

#### **A. Scope and Coverage**

The scope of this policy applies to all employment, business transactions, and academic practices involving the University and its Graduate Medical Education Fellowship and Residency programs.

#### **B. Administration**

The Office of Equal Opportunity and Compliance (EOC) is the internal authority within the University whose responsibility is to investigate applicant and employee formal complaints of discrimination. EOC also investigates any alleged retaliation against those who engage in or utilize the University's non-discrimination policies and procedures. EOC has full investigative authority. Complaints which are covered exclusively under the provisions of a valid collective bargaining agreement remain subject to those provisions.

**Important Note:** *Human Resources at the clinical facility and/or University; the Designated Institutional Official (DIO) or Program Director; or, an employee's immediate or next immediate supervisor may also be notified. It is suggested individuals attempt to resolve any concern(s) within the program initially, if possible.*

#### **C. Sanctions**

Any person who has been determined to have violated this policy shall be subject to disciplinary action. The specific penalties imposed upon violators will be commensurate with applicable laws and/or in accordance with University rules, regulations, policies and procedures.

#### **D. Falsification**

It is a violation of this policy for anyone to knowingly make false accusations of discrimination, harassment, or retaliation. Any person who knowingly or intentionally files a false complaint or intentionally misrepresents or omits facts under this policy shall be subject to disciplinary action. Failure to prove a claim is not equivalent to a false allegation.

#### **PROCEDURES:**

The following procedures described in this document apply to all faculty, fellows, residents, staff, visitors, contractors, and applicants alleging violations of federal and state civil rights laws, and the Florida State University Equal Opportunity, Non-Discrimination, and Non-Retaliation Policy. These complaint procedures are internal to the University and have been adopted to demonstrate the University's commitment to an environment free from discrimination and retaliation.

#### **A. Responsibilities**

Any applicant, faculty member, fellow, resident or staff who has witnessed what is perceived to be a violation of

this policy should promptly report that conduct to EOC, who will then proceed as appropriate. Any supervisor who has witnessed, becomes aware of, or receives a complaint of discrimination and/or retaliation involving a person within that supervisor's purview will be required to take prompt corrective action and promptly report the matter to EOC. Failure of the supervisor to take appropriate corrective action or to report the incident shall be in violation of this policy and shall constitute misconduct subject to disciplinary action. All parties are expected to fully cooperate in an investigation.

Complaints should be submitted to the EOC as soon as possible after the alleged discrimination or retaliation has occurred. EOC will conduct a prompt and thorough investigation. As a general rule, complaints asserted within 120 days of the alleged discriminatory or retaliatory act will be investigated by EOC. EOC will make reasonable efforts to investigate complaints brought forth that are more than 120 days old. All investigations will be completed thoroughly and as expeditiously as possible.

## **B. Filing a Complaint**

To initiate a formal complaint, the aggrieved applicant, individual, employee, or visitor, should submit a completed *Discrimination and/or Retaliation Complaint Form* to EOC or schedule an appointment with a EOC representative. EOC will conduct an impartial review of complaints alleging discrimination, harassment, or retaliation. Due process will be provided for individuals against whom a formal complaint of discrimination or retaliation has been made. EOC will ensure prompt and corrective measures to remedy unlawful discrimination or retaliation at FSU.

1. A private interview will be conducted by EOC with the Complainant to capture the alleged discriminatory or retaliatory conduct and the nature of the remedy desired.
2. EOC, in consultation with the General Counsel's Office, will make a threshold determination as to whether, presuming the facts underlying the allegation(s) to be true and accurate, the substance of the allegation(s) constitutes a violation of University policy. This preliminary determination will be made within five (5) work days from the date of the initial intake, and may include a determination of whether a formal investigation is required and/or whether appropriate intervening measures are necessary in order to comply with the requirements of federal and state law.
3. EOC may refer the Complainant to any other appropriate investigating authority for assistance if the allegations are not sufficient to warrant a discrimination and/or retaliation investigation. If the initial facts are sufficient to warrant an investigation, the matter will remain in EOC for further review and inquiry and all parties, Complainant and Respondent, will be given notice.
4. The investigation may include, but is not limited to interviewing witnesses, collecting documentation, and seeking any additional information as necessary. EOC investigators shall have unrestricted access to all pertinent materials, records, reports and documents within the possession or control of the University, and shall be afforded the opportunity to interview all persons possessing relevant information. Investigation of complaints of discrimination and/or retaliation generally will be completed within sixty (60) work days from the date of the initial intake unless the parties agree to informally resolve their concerns.
5. Informal resolutions of the complaint may be recommended by EOC. After obtaining consent from the parties involved, EOC will arrange for information to be shared between the parties regarding applicable issues and appropriate remedies. Failure to reach an amicable resolution will result in the continuation of the investigation.
6. At the conclusion of the investigation, EOC will prepare a written summation of its findings and will render its determination as to whether the Complainant was subjected to unlawful adverse treatment in violation of the University's Equal Opportunity, Non-Discrimination, and Non-Retaliation Policy.
7. A final written determination will be sent to the Complainant and Respondent, and the appropriate Vice President, Dean, DIO, Director and/or Department Head.

8. If corrective action or disciplinary action is required as a result of a finding against the Respondent, applicable procedures under the Florida State University's Rules & Regulations will be followed.

### **C. Confidentiality**

All complaints and other records in the custody of any unit of local government which relate to a complaint of discrimination relating to race, creed, color, sex, religion, national origin, age, disability, veterans' or marital status, sexual orientation, gender identity, gender expression, or any other protected group status are exempt from Florida Statute s. 119.07(1) and s. 24(a), Art. I of the State Constitution until a finding is made relating to a probable cause, the investigation of the complaint becomes inactive, or the complaint or other records is made part of the official record of any hearing or court proceeding.

All parties involved in an investigation or hearing, including witnesses, shall keep information concerning the investigation confidential. Violations of the confidentiality of other persons involved in a formal complaint, if identified and confirmed, may result in disciplinary or corrective action

Investigation and actions steps may be modified in conjunction with the policies and procedures of the affiliated clinical institutions of the FSU College of Medicine Graduate Medical Education Programs as appropriate.

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### **3.3 POLICY: HARASSMENT – SEXUAL**

#### PURPOSE:

The Florida State University (FSU) College of Medicine is committed to the maintenance of a supportive and productive environment. In order to ensure that such an environment exists, inappropriate professional behavior in all forms is not permissible. As an attempt to clarify and unify policy and procedures related to a severe form of inappropriate professional behavior, namely sexual harassment, the following policy and procedures have been adopted.

#### POLICY:

**POLICY STATEMENT.** Sexual harassment is a form of discrimination based on a person's gender. Sexual harassment is contrary to the sponsoring institution's values and moral standards, which recognize the dignity and worth of each person, as well as a violation of federal and state laws and University rules and policies. Sexual harassment cannot and will not be tolerated by FSU, whether by faculty, students, residents, fellows or staff; or by others while on property owned by or under the control of the University, or in programs run by FSU.

**DEFINITION.** Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature directed at an employee, agent or student by another when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of employment, academic status, participation in sponsoring institution's programs, or affects the measure of a resident's/fellow's academic performance; or,
- b. submission to or rejection of such conduct is used as the basis for a decision affecting employment, academic status, participation in sponsoring institution's programs, or the measure of a resident's/fellow's academic performance; or,

- c. such conduct has the purpose or effect of unreasonably interfering with employment opportunities, work or academic performance or creating an intimidating, hostile, or offensive work or educational environment.

**EXAMPLES OF SEXUAL HARASSMENT.** Incidents may involve persons of different or the same gender. They may involve persons having equal or unequal power, authority or influence. Though romantic and sexual relationships between persons of unequal power do not necessarily constitute sexual harassment, there is an inherent conflict of interest between making sexual overtures and exercising supervisory, educational, or other institutional authority. Decisions affecting an employee's/agent's job responsibilities, promotion, pay, benefits, or other terms or conditions of employment, or a learner's grades, academic progress, evaluation, status, recommendations, references, referrals, and opportunities for further study, employment or career advancement, must be made solely on the basis of merit.

Examples of sexual harassment include, but are not limited to, the following, when they occur within the circumstances described above:

- a. use of gender-based verbal or written language, including electronic communication, offensive or degrading to a person of that gender, whether or not the content is sexual;
- b. inappropriate display of gender-based pictorial images offensive or degrading to a person of that gender, including but not limited to sexual posters, photographs, cartoons, drawings, or other displays of sexually suggestive objects;
- c. use of inappropriate gestures or body language of a sexual nature, including leering or staring at another;
- d. unwelcome requests or demands for sexual favors or unwelcome sexual advances;
- e. inappropriate, nonconsensual touching of another's body, including but not limited to kissing, pinching, groping, fondling, or blocking normal movement; or
- f. sexual battery. (Note: some acts of sexual harassment may also constitute violations of criminal law, e.g., sexual battery, indecent exposure, sexual abuse, etc.)

**DISCIPLINARY AND OTHER ACTIONS.** Sexual harassment is prohibited by FSU. The University will take appropriate action against any person found to be in violation of this policy. (Note: a person who has sexually harassed another or retaliated against another may also be subject to civil or criminal liability under state or federal law.)

- a. Disciplinary Actions. Any staff, agent or faculty member, fellow or resident who has sexually harassed another employee, fellow, resident or student, retaliated against such person for bringing a complaint of sexual harassment, or otherwise violated this policy shall be guilty of misconduct and subject to disciplinary action up to and including dismissal, in accordance with applicable law, rules and policies. In addition, any fellow, resident or student who has sexually harassed another fellow, resident or student, or faculty, retaliated against such person for bringing a complaint of sexual harassment, or otherwise violated this policy may be subject to disciplinary action up to and including expulsion.
- b. Other Actions. The University will take such corrective action against any non-residents/fellows or non-employees found to have violated this policy, as may be appropriate under the circumstances.

RETALIATION. Retaliation against one who in good faith brings a complaint of sexual harassment or who in good faith participates in the investigation of a sexual harassment complaint is prohibited and shall be a violation of this policy and constitute misconduct subject to disciplinary or other action as described above.

FILING OF FALSE SEXUAL HARASSMENT COMPLAINT. Knowingly filing a false sexual harassment complaint is prohibited and shall be a violation of this policy and constitute misconduct subject to disciplinary action as described above. A complaint that is investigated and deemed unsubstantiated is not necessarily a false complaint.

REPORTING REQUIRED. Any fellow, resident, student or employee who has witnessed what is perceived to be a violation of this policy should promptly report that conduct to their Program Director or the Designated Institutional Official who then will proceed as appropriate. Any supervisor who has witnessed or becomes aware of the alleged occurrence of sexual harassment by, or who receives a complaint of sexual harassment involving a person within that supervisor's purview is required to take prompt corrective action as appropriate, and to report the matter. Failure of the supervisor to take appropriate corrective action or to report the incident shall be a violation of this policy and constitute misconduct subject to disciplinary action as described above.

#### COMPLAINT PROCEDURE.

- a. Filing of Complaint. Any fellow, resident, student or faculty who believes that he/she is a victim of sexual harassment in violation of this policy is encouraged to promptly notify the alleged perpetrator (the "respondent") verbally or in writing that his/her conduct is unwelcome. Such action may cause the unwelcome conduct to cease as well as help to maintain an environment free from sexual harassment. Assistance and support is available from University Human Resources or human resources at the clinical facility. Regardless of having given notice to the respondent, the fellow, resident, student, or employee (the "complainant") may initiate a complaint under this policy by promptly bringing the matter to the attention, preferably in writing by completing the complaint form, of any of the following:
  1. Human Resources at the clinical facility and/or University;
  2. The Office of Equal Opportunity and Compliance (EOC) at FSU;
  3. The DIO or Program Director; or,
  4. An employee's immediate or next immediate supervisor.

**All complaints should be filed in a timely manner. Complaints filed for acts that occurred more than one year from the filing date of the complaint will generally not be investigated.**

- b. Preparing a Complaint. The complainant should provide the following information to facilitate a prompt and thorough investigation:
  1. The names, addresses, telephone numbers, and position or status of the complainant and the respondent, if known;
  2. Specific acts alleged, including dates, times, and locations;
  3. Names, addresses, and phone numbers of potential witnesses;
  4. The effect the alleged acts have had on the complainant;
  5. Actions the complainant may have taken to attempt to stop the harassment;
  6. Complainant's suggestion of proposed action to address or resolve the harassment; and
  7. Other information the complainant believes is relevant.
- c. Transmitting a Complaint to Human Resources / EOC. The complaint shall immediately be forwarded. If the complaint is verbal, the person receiving the complaint shall make a written summary thereof on the complaint form and request the complainant to sign it.

- d. Reviewing a Complaint. Human resources / EOC will make an initial determination whether the alleged perpetrator is a fellow, resident, student, faculty member or employee. If the alleged perpetrator is identified, as one who is not a fellow, resident, student, faculty member or employee, then the matter will be referred to the appropriate authorities. If the alleged perpetrator is a fellow, resident, student, faculty member or employee, the complaint will be reviewed to determine whether the acts complained of, as stated by the complainant, constitute a violation of this policy, and if not, the complainant will be so informed. If the determination is made that the alleged acts may constitute a violation of this policy, the investigation will proceed as set forth below, unless the matter is satisfactorily resolved as in the following paragraph (e).
- e. Notifying the Respondent and Supervisor; Informally Resolving a Complaint; Withdrawing a Complaint. Human resources / EOC will notify the respondent and his/her appropriate supervisor of the allegations contained in the complaint. In an effort to informally resolve the complaint, human resources will elicit from the complainant, proposed actions the complainant believes are necessary to address or resolve the alleged harassment. The proposed actions will be discussed with the respondent and with appropriate levels of management. The respective parties will also have the opportunity to propose other means of resolution. Thus, if the matter can be resolved informally, or if the complainant chooses to withdraw the complaint, the complainant will sign a statement outlining the informal resolution and releasing the institution from taking any further action. If the matter is not resolved at this stage, the complaint will be investigated as set forth in below.

INVESTIGATION. The following procedures will govern all investigations of complaints alleging violations of this policy:

- a. Human Resources / EOC will thoroughly investigate complaints alleging violations of this policy with the assistance, as needed, of the respondent's supervisor(s).
- b. The investigation should include interviewing the complainant and witnesses suggested by the complainant who may have knowledge of the alleged offending behavior. Fellows, residents, students, faculty members or employees shall fully cooperate in the investigation.
- c. The respondent will be given an opportunity to respond to the complaint verbally and in writing and may suggest additional witnesses.
- d. The investigation should also include interviewing other witnesses as are deemed appropriate under the circumstances.
- e. The investigation should include a review of any files and records of previous sexual harassment complaints against the respondent and any other documents deemed relevant.
- f. All witnesses who provide relevant information should submit a written, signed statement attesting to their knowledge of the subject circumstances.
- g. Confidentiality of the investigation will be maintained to the extent allowed by law.

A report setting forth Human Resources / EOC findings and a determination concerning violation of this policy should be completed within 120 days following the filing of the complaint, where feasible, and will be submitted to the appropriate administrative personnel of the respondent's unit or department.

SUBSEQUENT ACTION. The Human Resources / EOC department will make a determination, upon review of the report, and with consideration of any other relevant information, including aggravating or mitigating circumstances, whether disciplinary action is warranted under the circumstances. If the determination is that disciplinary action should be initiated, then, consistent with due process requirements, the respondent will be

notified in accordance with applicable and institutional rules and policies, and appropriate disciplinary procedures as provided for therein will be followed. Regardless of whether formal disciplinary action is initiated, the institution may take such informal corrective action as may be appropriate under the circumstances. The complainant will be notified of the results of the investigation and subsequent disciplinary or other corrective action taken, if any, to the extent allowed by law. The respondents will be notified of the results of the investigation when no policy violation is found and no further action planned.

Investigation and actions steps may be modified in conjunction with the policies and procedures of the affiliated clinical institutions of the FSU College of Medicine Graduate Medical Education Programs as appropriate.

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### **3.4 POLICY: DUE PROCESS: PROCEDURE FOR GRIEVANCE, SUSPENSION, NON-RENEWAL, OR DISMISSAL**

#### **PURPOSE**

To set forth a fair, reasonable, and readily accessible policy and procedure for residents/fellows to resolve general grievances and appeal Corrective Actions. The position of the resident/fellow represents the dual aspect of learner in graduate medical education, while actively participating in the delivery of patient care. The Florida State University College of Medicine is committed to the maintenance of a supportive educational environment in which residents/fellows are given the opportunity to learn and grow. It is expected that all trainees will demonstrate appropriate professionalism and motivation to improve performance.

#### **POLICY**

A resident's/fellow's continuation in the training program is dependent upon satisfactory performance as a learner, including the maintenance of satisfactory professional standards in the care of patients, interactions with others on the health care team, and maintenance of medical records. The resident's academic evaluation will include assessment of ACGME milestones and core competencies, including cognitive, procedural, and behavioral components, including conduct that reflects professional standards, ethics, and collegiality. Disqualification of a resident/fellow as a learner or as a member of the health care team from patient care duties disqualifies the resident/fellow from further continuation in the program. In order to continue as a resident or trainee in an FSU College of Medicine Graduate Medical Education (GME) Program, the resident/fellow must meet eligibility criteria for appointment as a resident or fellow at the participating clinical institution.

**Grievances:** A grievance is defined as dissatisfaction when a resident/fellow believes that any decision, act or condition affecting his/her participation in a GME program is arbitrary, illegal, unjust or creates unnecessary hardship. Such grievance may concern, but is not limited to, the following: academic progress; mistreatment by any peer, staff, or faculty member; records errors; discipline (other than suspension, non-renewal or dismissal) and discrimination because of race, creed, color, gender, religion, national origin, age, disability, veteran's or marital status, or any other protected group status.

A resident/fellow who has a complaint or grievance may discuss this with the Program Director. If, after discussion, the grievances cannot be resolved, the resident may contact the Chair of the Graduate Medical Education Committee (CGMEC), who will meet with the resident/fellow and review the grievance. The decision of the CGMEC will be communicated in writing to the resident/fellow.

Academic actions taken by the program director, in consultation with the Clinical Competency Committee, resulting in academic enhancement plans, remediation, or probation are not subject to the GMEC appeals process.

***Suspension, Non-renewal, Dismissal or Appeal of a Resident/Fellow:***

**Suspension:** The following individuals are authorized to suspend a resident/fellow from patient care responsibilities: the Program Director, the Dean of the FSU College of Medicine, the Designated Institutional Official, or any of the following administrators at the clinical institution to which the resident is assigned: Chief of Staff, Chief Executive Officer, Chief Academic or Educational Officer, or Chief Medical Officer (or equivalent positions). The resident/fellow will be informed of the reasons for the suspension and will be given an opportunity to provide information in response.

The resident/fellow suspended from patient care may be assigned to other duties as determined appropriate and approved by the Program Director. The resident/fellow will either be reinstated (with or without the imposition of probation or other conditions) or dismissal proceedings will commence by the residency program or hospital affiliate, against the resident/fellow within thirty (30) days of the date of suspension.

Any suspension and reassignment of the resident/fellow to other duties may continue until final conclusion of the decision-making or appeal process. The resident/fellow may appeal to the Chair, Graduate Medical Education Committee (CGMEC), for resolution.

**Non-renewal:** In the event that the Program Director decides not to renew a resident's/fellow's appointment, the resident/fellow will be provided written notice no later than four months prior to the end of the resident's/fellow's contract, whenever possible. However, if the decision for the non-renewal occurs within four months prior to the end of the agreement, residents/fellows will be provided with as much written notice of the intent not to renew as the circumstances will reasonably allow, prior to the end of the agreement. The notice of intent will include a statement specifying the reason(s) for non-renewal.

If requested in writing by the resident/fellow, the Program Director will meet with the resident/fellow; this meeting should occur within 10 working days of the written request. The resident/fellow may present relevant information regarding the proposed non-renewal decision. The resident/fellow may be accompanied by an academic advisor from the program during any meeting held pursuant to these procedures, but the advisor may not speak on behalf of the resident/fellow. The resident is not entitled to legal counsel during the meetings. If the Program Director determines that non-renewal is appropriate, he/she will use his/her best efforts to present the decision in writing to the resident within 10 working days of the meeting; the resident/fellow will be informed of the right to appeal to the CGMEC.

**Dismissal:** In the event the Program Director of a training program concludes a resident/fellow should be dismissed prior to completion of the program, the Program Director will inform the CGMEC in writing of this decision and the reason(s) for the decision. The resident/fellow will be notified and provided a copy of the letter of proposed dismissal; and, upon request, will be provided previous evaluations, complaints, counseling, letters and other documents that relate to the decision to dismiss the resident/fellow.

If requested in writing by the resident/fellow, the Program Director will meet with the resident; this meeting should occur within 10 working days of the written request. The resident/fellow may present relevant information regarding the proposed dismissal. The resident/fellow may be accompanied by an academic advisor from the program during any meeting held pursuant to these procedures, but the advisor may not speak on behalf of the resident/fellow. The resident/fellow is not entitled to legal counsel during the meeting. If the Program Director determines that dismissal is appropriate, he or she will use his/her best efforts to present the decision in writing to the resident/fellow within 10 working days of the meeting.

**Appeal:** If the resident/fellow appeals a decision for suspension, non-renewal or dismissal, this appeal must be made in writing to the CGMEC within 10 working days from the resident's/fellow's receipt of the decision of the person suspending the resident/fellow or the Program Director. Failure to file such an appeal within 10 working

days will render the decision of the person suspending the resident/fellow or the Program Director the final agency action of the Florida State University College of Medicine.

The CGMEC will appoint an ad hoc committee to conduct a review of the action, and review the documents or any other information relevant to the decision. The resident/fellow will be notified of the date of the meeting of the CGMEC with the committee; it should occur within 10 working days of the CGMEC's receipt of the appeal. The CGMEC, along with the committee, will conduct an investigation and uphold, modify or reverse the recommendation for suspension, non-renewal or dismissal. It is the prerogative of the ad hoc committee to determine whether the resident/fellow will be requested to appear before the committee. The ad hoc committee will make a recommendation to the CGMEC. The CGMEC will make a final determination and notify the resident/fellow and the Program Director in writing of the decision. If the decision is to uphold a suspension, the decision of the CGMEC is the final agency action of the University. If the decision is to uphold the non-renewal or dismissal, the resident/fellow may file within 10 working days a written appeal to the Dean of the College of Medicine. Failure to file such an appeal within 10 working days will render the decision of the CGMEC the final agency action of the University.

If an appeal is filed with the Dean, the Dean will inform the CGMEC of the appeal. The CGMEC will provide the Dean with a copy of the decision and accompanying documents and any other material submitted by the resident/fellow or considered in the appeal process. The Dean will refer the appeal to a Special Committee appointed by the Dean consisting of three College of Medicine faculty members who have not previously been involved in the appeals process for the resident/fellow. The purpose of the Special Committee is to insure that the resident's/fellow's due process rights have not been violated and that the decision of the CGMEC is consistent with the policies and procedures of Graduate Medical Education and the Program. The Special Committee must meet and make a recommendation to the Dean within 10 working days upon receiving the charge from the Dean to consider the appeal. The Dean then makes the final decision to grant or deny the appeal based upon the recommendation of the Special Committee. The Dean will use his/her best efforts to render a decision within 5 working days of the Special Committee's recommendation, however, failure to do so is not grounds for reversal of the decision under appeal. The Dean will notify in writing the CGMEC, the Program Director and resident/fellow of the decision.

The decision of the Dean in all appeals is final unless the President of the University or the President's designee agrees to hear a further appeal. The resident/fellow must notify the Dean and submit the appeal to the President's Office within 10 working days after receiving notification of denial of appeal from the Dean of the College of Medicine.

**Burden of Proof:** The appealing resident/fellow has the burden to demonstrate, by clear and convincing evidence, that the Corrective Action issued by the program was arbitrary and capricious. 'Clear and convincing evidence' entails the data presented by the resident/fellow is highly and substantially more probable to be true than not. 'Arbitrary and capricious' means there was no reasonable basis for the Program's decision to take the Corrective Action.

**Time Limits:** Time limits set forth in this policy must be adhered to by both the resident/fellow and Florida State University College of Medicine unless extended for good cause at the discretion of the CGMEC or DIO. A resident/fellow who fails to meet the time limits for petitioning Corrective Action may be deemed to have withdrawn the appeal.

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## Section IV: Professional / Personal Conduct

### 4.1 POLICY: FATIGUE / STRESS

#### PURPOSE:

Symptoms of fatigue and/or stress are normal and expected to occur periodically with the resident/fellow population, as in other professional settings. Not unexpectedly, residents/fellows may on occasion, experience some effects of inadequate sleep and/or stress. The Accreditation Council for Graduate Medical Education (ACGME) requires that all residents/fellows receive education on fatigue and management/mitigation of fatigue during training.

#### ILLUSTRATIONS:

Signs and symptoms of resident/fellow fatigue and/or stress may include, but are not limited to, the following:

- Disturbed Mood
  - Labile
  - Depression
  - Anxiety
- Communication Errors
  - Charting
  - Team Dysfunction
- Impaired Judgement / Focus
- Impaired Procedural Competency (difficulty with novel tasks and multi-tasking)
- Inattentiveness to Details
- Forgetfulness
- Impairment in Awareness (fall back on rote memory)
- Lack of Attention to Proper Attire or Hygiene

#### POLICY:

All residency programs will include resident/fellow education on fatigue and its management to assure patient and trainee safety. The demonstration of resident/fellow excess fatigue and/or stress may occur in patient care settings or in non-patient care settings, such as, lectures and conferences. In patient care settings, patient safety, as well as the personal safety and well-being of the resident/fellow, mandate implementation of an immediate and a proper response sequence. In non-patient care settings, responses may vary depending on the severity of and the demeanor of the resident's/fellow's appearance and perceived condition. The following is intended as a general guideline for recognizing or observing excessive resident/fellow fatigue and/or stress.

#### **Patient Care Settings**

##### *Supervising Clinician:*

1. In the interest of patient and resident/fellow safety, the recognition that a resident/fellow is demonstrating evidence of excess fatigue and/or stress requires the supervising clinician or supervising resident/fellow to consider immediate release of the resident/fellow from any further patient care responsibilities.
2. The clinician or supervising resident should privately discuss his/her opinion with the resident/fellow, attempt to identify the reason for excess fatigue and/or stress, and estimate the amount of rest that will be required to alleviate the situation.
3. The clinician must attempt, in all circumstances without exception, to notify the chief/supervising resident on-call, or program director respectively, depending on the ability to contact one of these individuals, of the decision to release the resident/fellow from further patient care responsibilities at that time.
4. If excess fatigue is the issue, the clinician must advise the resident/fellow to rest for a period that is adequate to relieve the fatigue before operating a motorized vehicle. This may mean that the resident/fellow

should first go to the on-call room for a sleep interval no less than 30 minutes. The resident/fellow may also be advised to consider calling someone to provide transportation home. Each program and affiliated institution will provide a mechanism for safe transportation of the resident/fellow home.

5. The clinician should notify the chief resident, supervising faculty, or program director for further documentation of advice given to the resident/fellow removed from duty.

6. If stress is the issue, the clinician, upon privately counseling the resident/fellow, may opt to take immediate action to alleviate the stress. If, in the opinion of the clinician, the resident/fellow stress has the potential to negatively affect patient safety, the clinician must immediately release the resident/fellow from further patient care responsibilities/activity; notification of program administrative personnel shall include the chief/supervising resident on-call, and/or program director, respectively, depending on the ability to contact one of these individuals.

7. A resident/fellow who has been released from further immediate patient care because of excess fatigue and/or stress, cannot appeal the decision to the responding clinician.

8. A resident/fellow who has been released from patient care may not resume patient care duties without permission of the program director or his or her designee.

#### Residents/Fellows:

1. Residents/Fellows who perceive they are manifesting excess fatigue and/or stress have the professional responsibility to immediately notify the supervising clinician, chief resident, and program director without fear of reprisal.

2. Residents/Fellows recognizing fatigue and/or stress in fellow residents/fellows should report their observations and concerns immediately to the supervising clinician, chief resident, and/or program director.

#### Program Director:

1. Following removal of a resident/fellow from duty, in consultation with the chief resident, the program director should determine the need for an immediate adjustment in duty assignments for remaining residents/fellows in the program.

2. Subsequently, the program director will review the resident's/fellow's call schedules, reported duty hours, extent of patient care responsibilities, any known personal problems, and contributing stressors.

3. The program director will notify the supervising physician of the rotation in question to discuss methods to reduce resident/fellow fatigue.

4. In matters of resident/fellow stress, the program director will meet with the resident/fellow personally, as soon as can be arranged. If counseling by the program director is judged to be insufficient, the program director will refer the resident/fellow for additional counseling in conjunction with the Graduate Medical Education Office.

5. If the problem is recurrent or not resolved in a timely manner, the program director has the authority to release the resident/fellow indefinitely from patient care duties pending evaluation and recommendation from the Graduate Medical Education Committee.

6. The program director will release the resident/fellow to resume patient care duties only upon the advice of counseling personnel and will be responsible for informing the resident/fellow, as well as the supervising physician, of the resident's/fellow's current rotation.

7. If it is determined the resident/fellow should undergo continued counseling, the program director will be kept informed about the progress of the counseling.

8. Extended periods of release from duty assignments that exceed requirements for completion of training must be made up to meet RRC training guidelines.

### **Non-Patient Care Settings**

If residents/fellows are observed to show signs of fatigue and/or stress in non-patient care settings, the program director should follow the program director procedure outline above for the patient care setting.

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## **4.2 POLICY: SUPPORT FOR RESIDENT/FELLOW PHYSICIANS WITH IMPAIRMENT**

### PURPOSE:

The purpose of this policy is:

1. To establish a process to identify and manage matters of individual resident/fellow physician impairment, separate from the medical staff disciplinary function.
2. To protect patients from risks associated with care given by impaired resident/fellow physicians.
3. To establish a mechanism of reporting for any individual with a reasonable suspicion that a resident/fellow physician is impaired.
4. To provide a process that offers support and compassion to the affected resident/fellow physician.

### DEFINITION:

For the purpose of this policy and procedure, impairment is defined as a condition which is, or may be, adversely affecting patient care, including, but not limited to: alcoholism/alcohol abuse, other drug addiction, sexual misconduct and/or harassment, physical or medical conditions, psychiatric, emotional, and/or behavioral disorders.

### IDENTIFICATION OF IMPAIRMENT:

Listed below are possible signs and symptoms of impairment. Isolated instances may not impair ability to perform effectively, but if noted on a continued basis or if multiple signs are observed, reporting may be indicated.

1. Physical signs such as fatigue, deterioration in personal hygiene/ appearance, multiple physical complaints, accidents and eating disorders.
2. Family stability disturbances.
3. Social changes such as withdrawal from outside activities, isolation from peers, inappropriate behavior, undependability and unpredictability, aggressive behavior and argumentativeness.
4. Professional behavior problems such as unexplained absences, tardiness, decreasing quality or interest in work, inappropriate orders, behavioral changes, altered interaction with other staff and inadequate professional performance.
5. Behavioral signs such as mood changes, depression, slowness, lapses of attention, chronic exhaustion, risk taking behavior and extreme cheerfulness.
6. Drug use indicators such as excessive agitation or edginess, dilated or pinpoint pupils, self-medication with psychotropic drugs, stereotypical behavior, alcohol on breath at work, uncontrolled drinking at

social events, blackouts, and binge drinking.

#### POLICY:

1. This policy places the highest priority on protection of the patient, while promoting swift referral for evaluation, treatment and support for resident/fellow physicians.
2. The sponsoring institution and each program are responsible for monitoring residents/fellows for signs of psychological, medical or substance abuse problems that may be causing impairment, and for initiating appropriate interventions.
3. The FSU College of Medicine conforms to the Florida Medical Practice Act (F.S. 458), which provides for the Impaired Practitioners Program, which is administered through the Professionals Resource Network (PRN). PRN works closely with the State Board of Medicine and is recognized as the primary mechanism for providing assistance to impaired physicians in the state. Information on the PRN and its program can be obtained by calling 1-800-888-8776, emailing [admin@flprn.org](mailto:admin@flprn.org) or by writing to the PRN at P. O. Box 16510, Fernandina Beach, FL 32035.
4. It is the intent of the FSU College of Medicine that all appropriate rules that govern the practice of medicine and its related polices are strictly enforced.
  - a. Each residency/fellowship program will provide education to its residents/fellows regarding substance abuse and other impairment and available assistance.
  - b. A resident/fellow physician whose behavior is consistent with substance abuse or other impairment may be required by his/her Program Director to submit to a drug screen. Drug screens will be performed by the applicable hospital/clinical partner.
    - i. Behavior indicating substance abuse may include (see also Identification of Impairment):
      1. Observed impairment of job performance.
      2. Abnormal conduct or erratic behavior.
      3. A serious workplace accident or number of minor workplace accidents.
      4. Evidence of drug tampering in the employee's workplace.
      5. Arrest or conviction on an alcohol- or drug-related offense.
  - c. All referrals to the PRN are confidential and are evaluated by the professionals of the PRN. Decisions about intervention, treatment and after care are determined by the PRN.
  - d. As long as the resident/fellow physician satisfactorily participates in the PRN program, no regulatory action would normally be anticipated by the Board of Medicine.
  - e. Resumption of clinical activity and residency/fellowship program training will be contingent upon the continued successful participation in the PRN and continuation of the resident/fellow in the program will be determined in consultation between the program director, DIO and the professionals at the PRN.

#### PROCEDURE:

1. Resident/Fellow physicians with a past or current history of drug or alcohol addiction, or mental or physical health condition that may impact negatively patient care should report such condition to PRN.
2. Faculty, staff, peers, family members or other individuals who suspect that a member of the housestaff is suffering from a psychological, medical or substance abuse problem impacting patient care are obligated to report such problems. Individuals suspecting such impairment can discuss their concerns with the Program Director, Chief Medical Officer or Division Chief at the applicable hospital/clinical site and/or the DIO, or may report it directly to the Professionals Resource Network (PRN).
3. Residents/Fellows meeting any of the above criteria in 4b, or other reasonable criteria utilized by the Program Director, may be required by the Program Director to submit to a drug test. Refusal or failure to submit to a timely drug test is sufficient cause for termination of employment.
4. The resident/fellow will be relieved of his/her duties and will be given a specific time (generally less than two hours) that he/she is to report to the testing facility. Failure to report at the specified time, without pre-approval of the Program Director, is sufficient cause for immediate termination. In the event that the

resident/fellow is obviously impaired, consulting staff members will make arrangements to provide transportation to the testing facility.

5. The Designated Institutional Official should be promptly notified. Suspicious behavior should be documented on the form appended to this policy (See Attachment). This form is to be retained in the resident's/fellow's confidential personnel file.
6. The submitted sample (blood, hair and/or urine, as appropriate) will be screened. If an initial screen returns a positive result, a confirmatory test on the same sample will be conducted. If the confirmatory test is also positive, the result will be turned over to the Program Director. All sample collections for drug tests conducted for cause will be performed under observation.
7. Test results will be granted confidentiality in accordance with all federal and state laws and residency/fellowship policy. Tests will be performed at the applicable affiliated clinical institution or the site that they designate and will be paid for by the hospital/clinical partner. Notification of any other agency or licensing board will be accomplished by the Program Director in accordance with this policy.
8. Applicants may be asked to provide information as necessary to interpret drug screen results. Such information will be considered confidential.
9. Attempts to alter or substitute a specimen will be cause for immediate termination, even if the attempt is discovered at a later date.
10. The Program Director will schedule an appointment with the resident/fellow to discuss with him/her the results and will inform the DIO and other hospital administration as appropriate.
11. Along with the DIO and hospital administration as appropriate, the Program Director will determine the proper action necessary which will include prompt referral to PRN, and depending upon the circumstances may include immediate termination, while adhering to the ADA.
12. The Program Director will determine the resident's/fellow's ability to continue in the program and/or remain in patient care activities after evaluation of the resident/fellow and consultation with the professionals at PRN. Any resident/fellow terminated for cause will be ineligible for rehire for a minimum of six months. This period may be longer depending upon the situation.

#### CONFIDENTIALITY:

The identification, counseling and treatment of an impaired resident/fellow are deemed confidential, except as needed to carry out the policies of the GMEC or University and as required by law.

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# ATTACHMENT

<b>Program Director Documentation Form</b>			
Time of Call: _____			
Organization:		Program:	
Supervisor:		Telephone:	
Title:		Beeper/Other:	
Other Faculty:		Telephone#:	
Title:		Beeper/Other:	
Employee:			
Job Title:			
Length of Service:			
<b>Behavior Observed</b>	<b>Date</b>	<b>Yes</b>	<b>No</b>