

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 1 of 15

POLICY	
<b>PURPOSE AND SCOPE</b>	<p>Graduate medical education encompasses the development of clinical skills and professional competencies, as well as the acquisition of detailed factual knowledge in a specific medical specialty. These professional standards of conduct include, but are not limited to, professionalism, honesty, punctuality, attendance, timeliness, proper hygiene, duty hour and procedure record keeping, compliance with all applicable ethical standards and Memorial’s Standard Practices, guidelines, and policies and procedures, an ability to work cooperatively and collegially with staff and with other health care professionals, and appropriate and professional interactions with patients and their families. A Resident/Fellow’s appointment to Memorial’s Graduate Medical Education Program (the “<u>GME Program</u>”) is academic in nature. Over the course of their training in graduate medical education, Resident/Fellows are expected to progress satisfactorily in their Training Program by acquiring progressive and increasing competence and responsibility in the knowledge, skills, attitudes, and judgment of their specialty. A Resident/Fellow’s initial or continuing appointment to the GME Program is dependent on the Resident/Fellow’s maintaining good standing in the Training Program. When a Resident/Fellow’s performance and/or progress in a Training Program is unsatisfactory, actions of a disciplinary or adverse nature may be initiated. This Policy is being established in accordance with current ACGME Institutional Requirements and ACGME Common Program Requirements to provide a uniform and orderly process and set of procedures applicable to all Resident/Fellows enrolled in any of Memorial’s GME Programs who are subject to such actions. This Policy, however, only applies to such actions and does not address grievances unrelated to academic or disciplinary matters. Resident/Fellows who wish to file grievances unrelated to academic and disciplinary actions have access to a process that minimizes conflicts of interest under the GME Program’s Grievance Policy.</p>
<b>POLICY STATEMENT</b>	<p>Resident/Fellows who are not demonstrating satisfactory progress in the Competencies related to their Training Program may be subject to Non-Adverse Action or Adverse Action. Non-Adverse Actions are not Reviewable. However, Adverse Actions are Reviewable, and Resident/Fellows facing Adverse Action shall be afforded due process consistent with the uniform procedures outlined in this Policy.</p>
<b>DEFINITIONS AND ACRONYMS</b>	<p>The following words and acronyms shall have the meaning ascribed to them wherever they appear in this Policy, regardless of whether they are capitalized, unless (a) the context in which they are used clearly requires a different meaning, or (b) a different definition is prescribed for a particular section of this Policy. Words capitalized but not defined in this Policy shall have the meaning ascribed to such term in the most current version of the Accreditation Council for Graduate Medical Education Glossary of Terms, Institutional Requirements, or Common Program Requirements. All other words shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. When the context requires, the gender of all words includes the masculine, feminine, and neuter, the number of all words consists of the singular and plural forms, and, when</p>

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 2 of 15

	<p>appropriate, the form of a word includes the past tense, present participle, or gerund.</p> <ol style="list-style-type: none"> <li>(1) <b>“Academic Adverse Action”</b> means an Adverse Action concerning Academic Performance.</li> <li>(2) <b>“Academic Performance”</b> means knowledge, skills, behaviors, performance, and conduct required by the profession and expected of Resident/Fellows in the GME Program, including professionalism and clinical competence.</li> <li>(3) <b>“ACGME”</b> means the Accreditation Council for Graduate Medical Education.</li> <li>(4) <b>“Adverse Action”</b> means a decision by the Program Director or DIO to institute formal disciplinary action against a Resident/Fellow that materially affects the Resident/Fellow’s appointment to the Training Program or level, including: (1) probation; (2) suspension from the Training Program; (3) non-promotion in the Training Program; (4) non-renewal of appointment in the Training Program; or (5) dismissal from the Training Program.</li> <li>(5) <b>“CCC”</b> means the Clinical Competency Committee, a Training Program’s review committee comprised of three or more members of the active teaching faculty in a Training Program, one of whom must be a core faculty member, that is advisory to the Program Director and reviews the progress of all Resident/Fellows in the Training Program.</li> <li>(6) <b>“Committee Chair”</b> shall have the meaning ascribed to such term in <u>Section IV(b)(4)d.</u> (Procedural Conduct of Hearing).</li> <li>(7) <b>“Communications Media Technology”</b> means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.</li> <li>(8) <b>“Competencies”</b> means ACGME’s conceptual framework for physicians to enter autonomous practice, which includes specific knowledge, skills, behaviors, and attitudes in the following required domains: professionalism; patient care and procedural skills; medical knowledge; practice-based learning and improvement; interpersonal and communication skills; and systems-based practice.</li> <li>(9) <b>“DIO”</b> means the Designated Institutional Official, the individual of the GME Program who has the authority and responsibility for all of the Training Programs.</li> <li>(10) <b>“Disciplinary Adverse Action”</b> means an Adverse Action that is not academic and is based on a Resident/Fellow’s behavior or conduct including, without limitation, being convicted of any misdemeanor or felony; being criminally indicted or charged with a crime of moral turpitude or crime of deception or violence; engaging in any conduct that “shocks the conscience” or is threatening or dangerous to patients, peers, or faculty members; engaging in behavior that would negatively affect Memorial or the GME Program’s reputation; or engaging in repeated unprofessional, threatening, dangerous, or abusive conduct towards patients, peers, or faculty members.</li> </ol>
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Policy Title	GME Due Process Policy
Page	Page 3 of 15

	<p>(11) <b>“GME Program”</b> means Memorial’s Graduate Medical Education Program, the educational training program administered by Memorial that consists of clinical and other educational experiences in graduate medical education, designed to prepare Resident/Fellows for independent practice in a primary specialty.</p> <p>(12) <b>“Grounds for Written Appeal”</b> shall have the meaning ascribed to such term in <u>Section IV(b)(3)b.</u> (Written Appeal Review).</p> <p>(13) <b>“Hearing Appeal Request”</b> shall have the meaning ascribed to such term in <u>Section IV(c)</u> (Subsequent Appeals; Final Agency Action).</p> <p>(14) <b>“Initial Reviewer”</b> shall have the meaning ascribed to such term in <u>Section IV(b)(3)a.</u> (Initial Written Review).</p> <p>(15) <b>“Non-Adverse Action”</b> means non-adverse, educational interventions such as Resident/Fellow feedback, coaching, focused or formal remediation, or learning plans intended to address deficiencies.</p> <p>(16) <b>“Program Director”</b> means the individual designated with authority and accountability for the operation of a Training Program, including compliance with all applicable Training Program requirements.</p> <p>(17) <b>“Remediation Plan”</b> means a plan developed by the Program Director, with or without recommendations from the CCC, to correct deficiencies identified in a Resident/Fellow’s academic, clinical, and/or professional performance.</p> <p>(18) <b>“Request”</b> shall have the meaning ascribed to such term in <u>Section IV(b)(2)</u> (Filing a Request for Written Review or Hearing).</p> <p>(19) <b>“Resident/Fellow”</b> means any physician or podiatric trainee participating in the GME Program.</p> <p>(20) <b>“Reviewable”</b> means that a Resident/Fellow can request a written review or review hearing of an Adverse Action.</p> <p>(21) <b>“RHC”</b> shall have the meaning ascribed to such term in <u>Section IV(b)(4)a.</u> (Ad Hoc Review Hearing Committee).</p> <p>(22) <b>“Specific Grounds for Appeal”</b> shall have the meaning ascribed to such term in <u>Section IV(c)</u> (Subsequent Appeals; Final Agency Action).</p> <p>(23) <b>“Training Program”</b> means any specialty-/subspecialty-specific graduate medical education training program within the GME Program or under its oversight, including, without limitation, all of its residency programs, fellowship programs, and podiatric programs.</p> <p>(24) <b>“Written Appeal”</b> shall have the meaning ascribed to such term in <u>Section IV(b)(3)b.</u> (Written Appeal Review).</p> <p>(25) <b>“Written Notice of Adverse Action”</b> shall have the meaning ascribed to such term in <u>Section IV(b)(1)</u> (Notice of Adverse Action).</p>
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<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 4 of 15

<b>PROCEDURES</b>	<p><b>I. Non-Adverse Actions (Non-Reviewable)</b></p> <p>Training Programs should endeavor to take one or more of the following Non-Adverse Actions prior to the initiation of an Adverse Action. However, the initiation of a Non-Adverse Action is not a prerequisite for Adverse Action if the circumstances dictate otherwise. Non-Adverse Actions are not subject to any appeal process. With the exception of informal counseling/coaching, all Non-Adverse Actions must be adequately documented and filed in the Resident/Fellow’s academic evaluation record.</p> <p>(a) <b>Informal Counseling/Coaching.</b> Program Directors and faculty of Training Programs may provide informal counseling/coaching, which involves unplanned interaction between a Resident/Fellow and their supervisor or mentor. These interactions are characterized by their flexibility, openness, and the absence of formal documentation. The primary aim of informal counseling is to provide immediate feedback, address concerns, and offer support and problem-solving to Resident/Fellows in real-time.</p> <p>(b) <b>Formal Counseling/Coaching.</b> Program Directors and faculty of Training Programs may engage in formal counseling/coaching, offering guidance, feedback, and support in a less structured and more personal setting compared to formal evaluations, but in a more formal and structured setting than informal counseling/coaching. Concerns should be documented contemporaneously in the Resident/Fellow’s evaluation record. Documentation of formal counseling/coaching will remain in the Resident/Fellow’s file and may be disclosed in response to requests for or queries relating to verification of training, letters of employment, letters of reference, performance concerns, or disciplinary actions.</p> <p>(c) <b>Written Warning.</b> The Program Director may provide Resident/Fellows with a written warning for unsatisfactory academic, clinical, and/or professional conduct. The Program Director shall specify in writing the areas deemed unsatisfactory and state the reasons for the warning, and provide a copy of the warning to the Resident/Fellow. Documentation of written warnings will be retained in the Resident/Fellow’s file and may be disclosed in response to requests for or queries related to verification of training, letters of employment, letters of reference, performance concerns, or disciplinary actions.</p> <p>(d) <b>Remediation Plan.</b> The Program Director, with or without recommendations from the CCC as applicable, may develop a written Remediation Plan to correct Competency deficiencies identified in a Resident/Fellow’s academic, clinical, and/or professional performance. Remediation Plans should identify the (i) Competencies, behaviors, and performance concerns at issue; (ii) expected outcomes; (iii) monitoring, resources, and timeline; and (iv) potential consequences or next steps if unmet, which may include, without limitation, extension of the Remediation Plan, subsequent placement on a new Remediation Plan, or further action. Resident/Fellows are required to sign the Remediation Plan acknowledging receipt and their understanding of the Remediation Plan’s</p>
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<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 5 of 15

terms. Remediation Plans are not Reviewable. Documentation of Remediation Plans will be retained in the Resident/Fellow's file and may be disclosed in response to requests for or queries related to verification of training, letters of employment, letters of reference, performance concerns, or disciplinary actions.

## **II. Administrative Suspensions (Non-Reviewable)**

The following actions are not disciplinary in nature, and Resident/Fellows are not entitled to the due process rights outlined in Article IV. (Reviews of Adverse Actions) below in connection with actions taken in accordance with this Section. However, failure to correct administrative deficiencies may be cause for a subsequent Adverse Action, which would be subject to the due process procedures in Article IV. (Reviews of Adverse Actions), and nothing herein precludes the Training Program from taking other action with respect to a Resident/Fellow as provided in this Policy while the Resident/Fellow is under administrative suspension.

### **(a) Administrative Suspension from Clinical Work or Training.**

Resident/Fellows shall be immediately and automatically suspended from clinical work and/or training for any of the following reasons:

- (1) Failure to obtain and maintain active licensure to practice as required under federal or state law, or any licensure otherwise required to participate in the Training Program; or
- (2) For foreign Resident/Fellows, failure to maintain proper visa status and authorization as required under federal or state law.

**(b) Administrative Suspension Pending Investigation.** Resident/Fellows may be suspended, with or without pay, pending the outcome of an investigation. Suspensions pending the outcome of an investigation are not Reviewable unless the suspension is without pay or the suspension period would result in the extension of a Resident/Fellow's training year.

## **III. Adverse Actions (Reviewable)**

Any Adverse Action, whether an Academic Adverse Action or a Disciplinary Adverse Action, that is initiated against a Resident/Fellow may result in serious professional consequences. The Resident/Fellow's activities are subject to repeated review and inquiry by medical staff credentialing committees, certification boards, licensing agencies, and other professional bodies, and the GME Program must report Adverse Actions when proper inquiry is made. Because of the consequences, Resident/Fellows must be afforded appropriate due process when identified deficiencies in a Resident/Fellow's academic, clinical, or professional performance subject them to Adverse Action.

### **(a) Grounds for Adverse Actions**

Subject to the procedures provided herein, the GME Program reserves the right, at the discretion of the Program Director or their designee, and with or without recommendation of the CCC, to take any Adverse Action

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 6 of 15

deemed necessary and appropriate under the circumstances. Conduct necessitating Adverse Actions may include, but is not limited to:

- (1) Conduct that does not meet the standard of care to patients or that poses a risk to patient safety, or which does not otherwise meet satisfactory academic, clinical, and professional progress commensurate with training level;
- (2) Conduct which calls into question the integrity, ethics, or judgment of the Resident/Fellow, or which could prove detrimental to Memorial’s patients, employees, or operations;
- (3) Conduct that is disruptive to the Training Program, the GME Program, or to Memorial’s operations;
- (4) Failure to perform duties and/or to maintain “duty hours” in accordance with the Training Program’s standards and guidelines;
- (5) Inappropriate or illegal use of medications, drugs, or alcohol;
- (6) Failure to complete and maintain medical records in accordance with Memorial’s Standard Practices, guidelines, and policies and procedures, federal and state law, and/or accreditation body requirements;
- (7) Failure to comply with applicable bylaws, policies, procedures, rules, or regulations of Memorial and/or accreditation bodies;
- (8) Violation of the Resident/Fellow’s Agreement of Appointment & Employment;
- (9) Failure to successfully remediate deficiencies following placement on probation or placement on a Remediation Plan; and/or
- (10) Any other conduct, behavior, or actions reasonably deemed contrary or detrimental to Memorial, the GME Program, or the Training Program.

(b) **Types of Adverse Actions.** The Program Director, with or without the recommendation of the CCC, may impose an Adverse Action. In the event the Program Director is unavailable to impose Adverse Action on a Resident/Fellow, the Associate Program Director or another faculty member appointed by the DIO or Memorial’s Office of Graduate Medical Education may take any appropriate Adverse Action. There are five categories of Adverse Actions: probation, suspension (non-administrative), non-promotion, non-renewal, and dismissal. All Adverse Actions are Reviewable. Documentation concerning Adverse Actions will remain in the Resident/Fellow’s file and may be disclosed in response to requests for or queries relating to verification of training, letters of employment, letters of reference, performance concerns, or disciplinary actions.

- (1) **Probation.** Probation shall be used for Resident/Fellows who are in jeopardy of not completing the requirements of the Training Program, who have been unsuccessful at remediating prior concerns,

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 7 of 15

	<p>or if the initial concern is significant enough to warrant immediate probation. Conditions of probation shall be communicated to the Resident/Fellow in writing and should include: (i) the reasons for the probation; (ii) an individualized learning or Remediation Plan that must be satisfied to be removed from probation; (iii) the expected time frame for the required remedial activity; and (iv) potential consequences if the Resident/Fellow fails to remediate successfully. Probationary periods should be proportionate to the nature of the concern. If, at the end of or during the probationary period, the Program Director, with or without feedback from the CCC, determines that the Resident/Fellow has not corrected or remediated the identified deficiency, concern, or conduct, the Resident/Fellow may face additional disciplinary action, including, but not limited to, further Adverse Action. However, probation is not a prerequisite for imposing other Adverse Action if circumstances dictate otherwise. If the Program Director is satisfied that the Resident/Fellow has corrected or remediated the identified deficiency or conduct during the probationary period, the Resident/Fellow will be notified in writing that the probationary status has been lifted. Resident/Fellows may be placed on future probation should the conduct/deficiency occur again. Probation, as well as additional Adverse Action taken subsequent to probation, is Reviewable. However, following a Review or waiver of placement on probation, such placement on probation will not be Reviewed again if a subsequent Adverse Action is imposed on a Resident/Fellow for not successfully completing probation.</p> <p>(2) <b>Suspension.</b> There are two types of suspensions deemed Adverse Actions. These include:</p> <ol style="list-style-type: none"> <li>a. <u>Summary Suspensions.</u> Summary suspension is an immediate suspension of a Resident/Fellow’s training when there are concerns that a Resident/Fellow’s academic, clinical, and/or professional performance or conduct is such that they may cause a danger to patients, visitors, the Training Program, the GME Program, or others. Except in rare circumstances, summary suspensions should not extend beyond 60 days without subsequent Adverse Action (i.e., probation, durational suspension, non-promotion, non-renewal, or dismissal). Summary suspensions may be imposed by the Program Director, Associate Program Director, or DIO and may be with or without pay. Summary suspensions are Reviewable but may be imposed prior to any applicable appeal. If reversed following review, hearing, or appeal, Resident/Fellows placed on leave without pay shall receive back pay for the period during which the leave without pay was imposed.</li> <li>b. <u>Durational Suspensions.</u> A durational suspension occurs when a Resident/Fellow is suspended from all or part of their usual and</li> </ol>
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<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 8 of 15

regular assignments in the Training Program, including clinical and/or didactic duties. A durational suspension may be imposed where the Resident/Fellow's performance fails to meet the Training Program's standards, there has been a determination that the Resident/Fellow's academic, clinical, and/or professional performance or conduct falls below the standard of care or academic or professional development, the Resident/Fellow has failed to comply with Memorial's Standard Practices, guidelines, and policies and procedures or applicable law or regulation, or when the Resident/Fellow has engaged in unprofessional conduct or the circumstances are such that suspension is the most appropriate course of action (such as when probation is not suitable and non-promotion, non-renewal, or dismissal from the Training Program are too severe). Durational suspensions are Reviewable. The Resident/Fellow's salary and benefits may continue during the period of suspension, depending on the circumstances and at the discretion of the DIO. Durational suspensions should not be imposed prior to an appeal or waiver. However, if the circumstances dictate otherwise, Resident/Fellows may be placed on administrative leave pending the outcome of any applicable review, hearing, or appeal. If reversed following review, hearing, or appeal, Resident/Fellows placed on leave without pay shall receive back pay for the period during which the leave without pay was imposed.

- (3) **Non-Promotion.** Non-promotion in the Training Program occurs when a Resident/Fellow's training year is extended or when a Resident/Fellow must repeat part or all of their training year because the Program Director, with or without a recommendation from the CCC, has determined that the Resident/Fellow has not met the Competencies, objectives, and goals required for advancement in the Training Program, and the Resident/Fellow requires additional training before advancing. Non-promotion determinations are Reviewable.
- (4) **Non-Renewal.** The Program Director, with or without recommendation of the CCC, may recommend that a Resident/Fellow's training agreement not be renewed for unsatisfactory academic, clinical and/or performance issues during the term of the Resident/Fellow's training. A non-renewal is a decision to allow the Resident/Fellow to complete their current training year but to dismiss the Resident/Fellow from the Training Program at the end of the training year. Decisions not to renew a Resident/Fellow's training are Reviewable. The Program Director shall provide the Resident/Fellow with written notice of the non-renewal and reasons therefore as soon as possible and before the end of the Resident/Fellow's current training year, whenever possible.

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 9 of 15

- (5) **Dismissal.** The Program Director, with or without recommendation of the CCC, may recommend that a Resident/Fellow be dismissed for unsatisfactory academic, clinical, and/or performance, for failure to meet the terms of any prior disciplinary action, or if an initial problem is significant enough to warrant immediate separation from the Training Program, the GME Program, and/or Memorial. The Program Director shall specify in writing the areas deemed unsatisfactory, the reasons for the dismissal, the effective date, and provide a copy of the recommendation for dismissal to the Resident/Fellow. Training certification shall be granted for the period of months of acceptable service prior to the termination date. The Resident/Fellow's salary and benefits shall terminate as of the effective date of the termination unless the DIO, at the DIO's discretion, determines otherwise. If the circumstances warrant, immediate dismissal or leave with or without pay pending the outcome of any applicable review, hearing, or appeal may be imposed prior to any review, hearing, or appeal or waiver thereof. If reversed following review, hearing, or appeal, Resident/Fellows immediately dismissed or placed on leave without pay shall receive back pay for the period of time the leave without pay was imposed.

#### IV. Reviews of Adverse Actions

- (a) **Actions Covered.** The following Adverse Actions trigger due process protections under this policy: probation, summary suspensions, durational suspensions, non-promotions, non-renewals, and dismissals.
- (b) **Review and Hearing Procedures**
- (1) **Notice of Adverse Action.** Prior to an Adverse Action, the Program Director, Associate Program Director, or DIO (if the Program Director or Associate Program Director is unavailable) will provide the Resident/Fellow with written notice stating: (a) the proposed Adverse Action; (b) the factual basis for the Adverse Action; (c) the effective date of the Adverse Action; (d) its expected duration if it is a durational suspension or the extension period if the Resident/Fellow's training year is going to be extended; and (e) the Resident/Fellow's timeline to respond and request either a written review or a review hearing under this Policy ("Written Notice of Adverse Action").
- (2) **Filing a Request for Written Review or Hearing.** Following receipt of Written Notice of Adverse Action, a Resident/Fellow may request either a written review or a review hearing ("Request"). A Request must be made within five (5) business days of the date of Written Notice of Adverse Action to: (i) the Office of Graduate Medical Education, (ii) Directors of Graduate Medical Education, and (iii) the Program Director. The Request must (i) select either a written review or review hearing; and (ii) clearly identify the Adverse Action being challenged, the factual basis for the objection, and include any

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 10 of 15

documentation or objective evidence the Resident/Fellow wishes to have considered during the review or hearing process. Failure to file a Request with all the foregoing individuals within five (5) business days of receiving Written Notice of Adverse Action, or failure to include both the Adverse Action being challenged and the factual basis for the objection, will constitute a waiver of review and hearing and render the Program Director's or designee's decision final. If the Request is timely and complete, the Office of Graduate Medical Education and/or the Directors of Graduate Medical Education shall forward the Request, along with all supporting documentation or evidence that formed the basis for the Adverse Action, to the DIO. At the Resident/Fellow's request, copies or access to the materials reasonably relied upon, subject to law and confidentiality, shall be provided.

**(3) Written Review Procedures**

- a. Initial Written Review. Resident/Fellows may elect for a written review in lieu of a review hearing. A Resident/Fellow who has adhered to all the procedural and timeline requirements of Section IV(b)(2) (Filing a Request for Written Review or Hearing) and who elects to have a written review shall have the Request reviewed by one or more program directors or faculty members from another Training Program appointed by the DIO (collectively, the "Initial Reviewer"). The Program Director of the Resident/Fellow's Training Program may, but is not required to, submit a rebuttal or other supporting documentation related to the Adverse Action. The Initial Reviewer may request additional or supplementary information from either the Resident/Fellow or the Program Director as needed. For Academic Adverse Actions, substantial deference shall be afforded to the academic judgment of the Training Program's Program Director, faculty and CCC, and the decision of the Program Director will be upheld if the Initial Reviewer determines that: (a) the process afforded to the Resident/Fellow was fair; (b) the decision was a conscientious decision that was careful and deliberate; (c) the action falls within a reasonable range of academic judgment; and (d) the decision was not arbitrary or capricious or a substantial departure from accepted academic norms so as to demonstrate that professional judgment was not exercised. For Disciplinary Adverse Actions, the decision of the Program Director will be upheld if the disciplinary violation is supported by a preponderance of the evidence. Within fifteen (15) business days of the Resident/Fellow's submission of the Request, the Initial Reviewer shall issue a written decision and provide copies to the Resident/Fellow and the Program Director. If the Initial Reviewer is unable to issue a decision within the specified period, the Initial Reviewer may extend the deadline for up to an additional fifteen

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 11 of 15

(15) business days and shall notify both the Resident/Fellow and the Program Director of any extension.

- b. Written Appeal Review. A Resident/Fellow who is dissatisfied with the Initial Reviewer’s written decision may submit a request for a written appeal (“Written Appeal”) to the DIO or GME office within five (5) business days of receiving the Initial Reviewer’s decision. Issues not previously raised in the Request (or which a Resident/Fellow has no standing to raise) will not be considered, and no new evidence may be submitted or considered unless it was not reasonably available at the time of the Initial Reviewer’s review. Written Appeals must be limited to (a) whether or not sufficient evidence was available to support the Initial Reviewer’s recommendation; or (b) whether there is new recently discovered evidence that could not reasonably have been introduced at the time of the initial written review and would be likely to change the result (“Grounds for Written Appeal”). The Written Appeal must: (i) identify the academic decision being appealed; (ii) include a copy of the Initial Reviewer’s written decision; (iii) state the specific Grounds for Written Appeal; and (iv) state why the Initial Reviewer’s decision is believed to be in error. Failure to submit a Written Appeal to the DIO within five (5) business days of receiving the Initial Reviewer’s decision, or failure to include the decision being appealed, the Grounds for Written Appeal, and why the Initial Reviewer’s decision is believed to be in error, will constitute a waiver of appeal and render the Initial Reviewer’s decision final. The Program Director may, but is not required to, submit a statement or other rebuttal or supporting documentation related to the Grounds for Written Appeal. Within fifteen (15) business days of receiving the Written Appeal, the DIO shall issue a written decision and provide copies to the Resident/Fellow and Program Director. If the DIO is unable to issue a decision within the specified period, the DIO may extend the deadline for up to an additional fifteen (15) business days and shall notify both the Resident/Fellow and the Program Director of any extension. The decision of the DIO shall be final and not subject to further appeal.

**(4) Review Hearing Procedures**

- a. Ad Hoc Review Hearing Committee. Resident/Fellows may elect to have a review hearing instead of a written review. A Resident/Fellow who has adhered to all the procedural and timeline requirements of Section IV(b)(2) (Filing a Request for Written Review or Hearing) and who elects to have a review hearing shall receive a review hearing from an ad hoc Review Hearing Committee (“RHC”). The DIO shall appoint the RHC within fifteen (15) business days of receiving a timely and complete Request for a review hearing from a Resident/Fellow.

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 12 of 15

	<p>In the event the RHC is unable to convene within this timeframe, it shall inform the Resident/Fellow and Program Director of the approximate date on which the RHC expects to convene. The RHC panel shall consist of at least three (3) impartial and not-involved members (e.g., GME administration and leaders and faculty from another Training Program). No CCC member of the Resident/Fellow's Training Program may serve on the RHC.</p> <p>b. <u>Advisors</u>. The convening of the RHC is considered an academic proceeding, not a legal proceeding. No legal counsel may participate as an advocate for either the Resident/Fellow or the Training Program. The Resident/Fellow may be accompanied by an advisor of their choice, which may be a non-participating attorney, at their own expense. Advisors may confer with the Resident/Fellow but may not address the panel directly except as permitted by the Committee Chair. The Training Program may also have a non-participating advisor present.</p> <p>c. <u>Pre-Hearing Exchange of Evidence</u>. At least seven (7) calendar days prior to the review hearing or at another date agreed to by the parties and the Committee Chair, all documents to be introduced as evidence at the review hearing and names of all witnesses shall be exchanged. With the exception of rebuttal witnesses and rebuttal documents, any witnesses not named and any documents not exchanged seven (7) calendar days before the review hearing may, at the Committee Chair's discretion, be excluded from the review hearing. All witness lists and documents shall be made available to the RHC members for the review hearing.</p> <p>d. <u>Procedural Conduct of Hearing</u>. The review hearing is academic and is not a legal or judicial hearing. At the discretion of the RHC, review hearings may be held in person or conducted using any Communications Media Technology that enables the Resident/Fellow, Program Director, and RHC to participate contemporaneously and communicate during the review hearing. Review hearings may, but are not required to, be audio- or video-recorded. The DIO may appoint an individual or request a member of Memorial's Office of General Counsel to serve as the chairperson of the RHC ("<u>Committee Chair</u>"). The Committee Chair is not a member of the RHC and does not vote in the RHC's deliberation process. The Committee Chair is responsible for maintaining the decorum of the hearing, determining the relevance and admissibility of evidence, ruling on all questions of procedure and evidence, and providing procedural guidance to the RHC. The Committee Chair has broad discretion regarding the admissibility of evidence and is not bound by federal or state rules of evidence. If requested by a party, the Committee Chair may take judicial notice of (i.e., recognizing as a fact the existence</p>
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<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 13 of 15

of) any Memorial or GME Program Standard Practices, guidelines, and policies and procedures. The Training Program will first present any evidence supporting the basis for action, which may include documents, statements, information, and witnesses. When the Training Program rests its case, the Resident/Fellow will then have the opportunity to present documents, statements, information, and witnesses. The Committee Chair is responsible for determining whether direct and cross-examinations may be conducted directly by the parties or whether questioning of witnesses will be conducted through the Committee Chair. The parties shall have the opportunity to present rebuttal evidence. The Committee Chair has the right to limit rebuttal evidence in accordance with the Committee Chair's authority. At the request of either party or at the Committee Chair's election, only the witness testifying may be present, and other potential witnesses will be temporarily sequestered. However, the Resident/Fellow, the Resident/Fellow's advisor, and the Training Program's representative shall have the right to be present at the hearing at all times, unless they engage in disruptive or disorderly behavior that interferes with the conduct of the review hearing. The RHC members may ask questions of any witness testifying. The RHC members may also ask questions to the Program Director or the Resident/Fellow, even if such individuals do not testify. At the close of both parties' cases, the parties may either orally present a closing statement or submit a written closing statement. The decision as to whether such closing statements shall be oral or written shall rest at the sole discretion of the RHC. Following the close of the review hearing, the RHC shall convene out of the presence of the Program Director and Resident/Fellow to evaluate the evidence presented. At the request of the RHC, the Committee Chair may be present at the RHC's deliberations to assist the RHC members with the procedural aspects of the hearing process, and may assist with drafting the RHC's opinion consistent with the RHC's directives and approval. The RHC at any time may request additional relevant material and/or information from the Resident/Fellow, Program Director, or any other individual it deems necessary to render a decision. The RHC may consider any relevant information, including educational records and evaluations, presented at the review hearing or otherwise requested by the RHC. For Academic Adverse Actions, substantial deference shall be afforded to the academic judgment of the Training Program's Program Director, faculty and CCC, and the decision of the Program Director will be upheld if the RHC determines that: (a) the process afforded to the Resident/Fellow was fair; (b) the decision was a conscientious decision that was careful and deliberate; (c) the action falls within a reasonable

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 14 of 15

range of academic judgment; and (d) the decision was not arbitrary or capricious or a substantial departure from accepted academic norms so as to demonstrate that professional judgment was not exercised. For Disciplinary Adverse Actions, the decision of the Program Director will be upheld if the disciplinary violation is supported by a preponderance of the evidence. The RHC will render a decision within fifteen (15) business days after the conclusion of the hearing and the receipt of any requested supplementary materials. In the event the RHC is unable to make its final determination within this timeframe, it shall inform the Resident/Fellow and Program Director of the delay and the approximate date by which it expects to make a final determination and render an opinion.

**(c) Subsequent Appeals; Final Agency Action**

A Resident/Fellow who is dissatisfied with the decision of the RHC may submit a request for a hearing appeal (“Hearing Appeal Request”) to the DIO within five (5) business days of receiving the RHC’s decision. Issues not previously raised or objected to at the hearing (or which a Resident/Fellow has no standing to raise) will not be considered, and no new evidence may be submitted or considered unless it was not reasonably available at the time of the review hearing. Hearing Appeals must be limited to (a) whether the evidence presented to the RHC was sufficient to support the RHC’s recommendation; or (b) whether there is new recently discovered evidence that could not reasonably have been introduced at the review hearing and would be likely to change the result (“Specific Grounds for Appeal”). The Hearing Appeal Request must: (i) identify the academic decision being appealed; (ii) include a copy of the RHC’s written decision; (iii) state the Specific Grounds for Appeal; and (iv) state why the RHC’s decision is believed to be in error. Failure to submit a Hearing Appeal Request to the DIO within five (5) business days of receiving the RHC’s decision, or failure to include the decision being appealed, the Specific Grounds for Appeal, and why the RHC’s decision is believed to be in error, will constitute a waiver of appeal and render the RHC’s decision final. At the sole discretion of the DIO, the DIO may hold an informal meeting with both the Program Director and the Resident/Fellow to properly evaluate the appeal and such meeting may be held in person or via Communications Media Technology. No legal counsel is permitted at an informal meeting. Within fifteen (15) business days of receiving the Hearing Appeal Request, the DIO shall issue a written decision and provide copies to the Resident/Fellow and Program Director. If the DIO is unable to issue a decision within the specified period, the DIO may extend the deadline for up to an additional fifteen (15) business days and shall notify both the Resident/Fellow and the Program Director of any extension. The decision of the DIO shall be final and not subject to further appeal.

**REFERENCES**

ACGME Institutional Requirements

<b>Policy Title</b>	<b>GME Due Process Policy</b>
<b>Page</b>	Page 15 of 15

	<p>ACGME Common Program Requirements</p> <p>ACGME Program Specific Requirements</p> <p>GME — Renewal and Promotion</p> <p>GME — Resident Contract</p> <p>GME — Grievance Policy</p> <p>MHS — Anti Retaliation Policy</p> <p>MHS — Anti-Harassment Policy</p> <p>MHS — Equal Employment Opportunity Policy</p>
<b>ORIGINAL ISSUE DATE</b>	July 2017
<b>GMEC REVIEW/REVISION DATES</b>	September 2019; August 2020; August 2024; December 2024; March 2025; January 2026
<b>POLICY OWNER</b>	Office of Academic Affairs
<b>AMENDMENTS, CONFLICTS, AND CROSS REFERENCES</b>	<p>Memorial, the GME Program, and the Graduate Medical Education Committee reserve the right to modify this Policy, in whole or in part, at any time, at their discretion, or as otherwise required by applicable law or regulation, or applicable requirements of ACGME and other governing/accrediting bodies. In the event of any conflict or inconsistency between this Policy and any of Memorial’s other Standard Practices, guidelines, and policies and procedures, the provisions of this Policy shall govern and control. In the event of any conflict or inconsistency between this Policy and any applicable law or regulation, or any applicable requirement of ACGME or any other governing accreditation body, such applicable law, regulation, or accrediting body requirement shall govern and control as if fully set forth herein. Any reference in this Policy to a section, subsection, or paragraph shall be deemed a reference to the corresponding section, subsection, or paragraph of the Procedure section.</p>