UCSF Fresno

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POLICY: ACADEMIC DUE PROCESS POLICY

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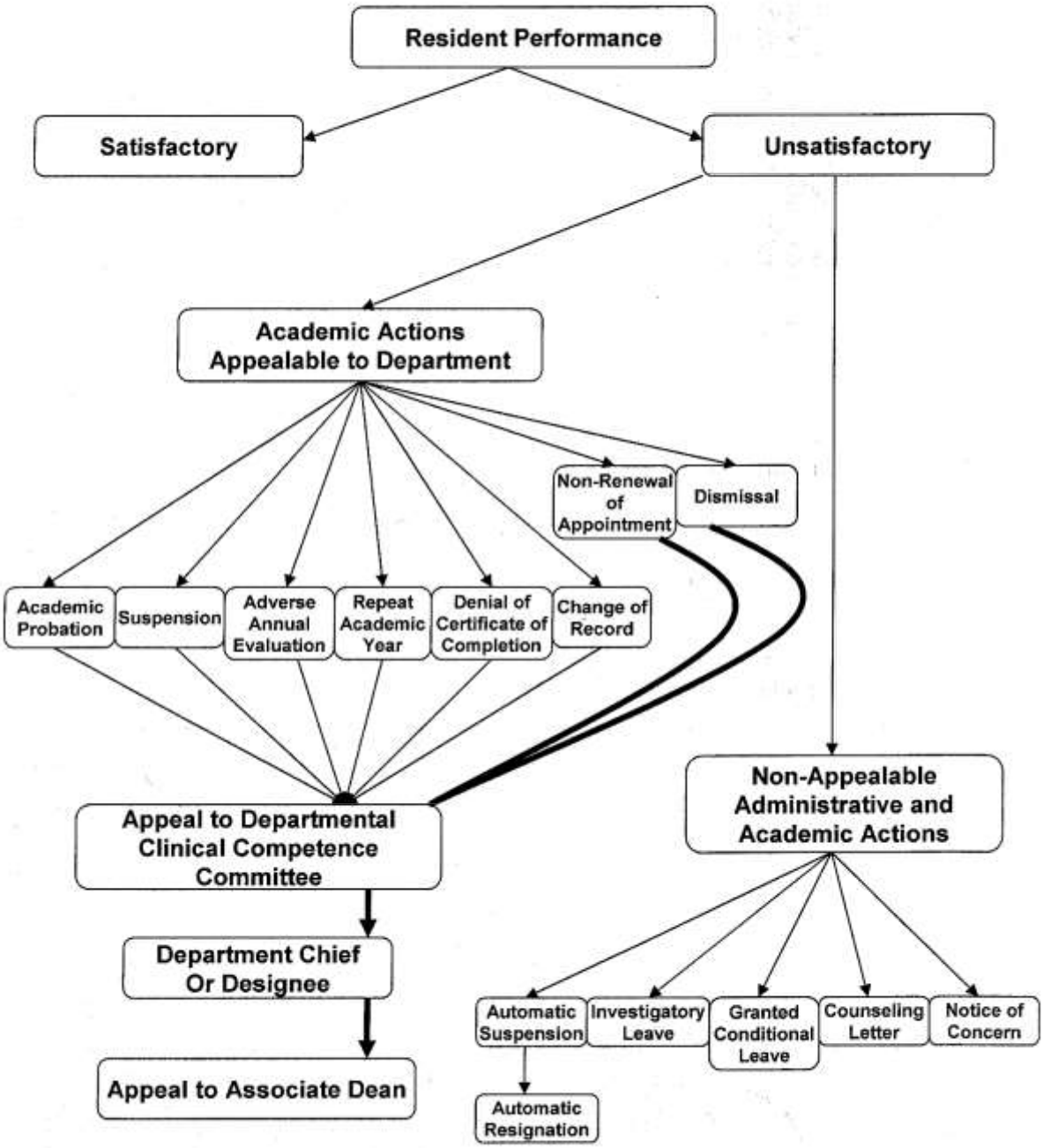

I. INTRODUCTION

I.A. Preamble and Purpose

Graduate medical education involves the development of professional competencies in a medical specialty as set forth by the Accreditation Council for Graduate Medical Education (ACGME) and its individual Residency Review Committees. These professional competencies include standards of conduct such as professionalism, honesty, punctuality, attendance, timeliness, proper hygiene, compliance with all applicable ethical standards and UCSF Fresno 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.

At the University of California San Francisco, Fresno ("UCSF Fresno") the primary responsibility for remedial academic actions relating to resident physicians and other post-M.D. trainees (hereinafter referred to as "Trainees") and clinical training programs resides within the departments and the individual training programs. Therefore, academic and performance standards and methods of training and evaluation are to be determined by each department and/or program at the University. There may be variances regarding these standards among the various departments and programs. In general, trainees can be disciplined for unacceptable conduct in a variety of categories including but not limited to:

a. incompetence, dishonesty, inadequate knowledge or ability to perform professional activities, complete assigned duties, and deliver proper medical care
b. failure to improve performance in an identified area
c. conduct that violates professional and/or ethical standards and/or the law, including intellectual dishonesty or cheating in scientific or scholarly activities
d. failure to fulfill any term of the employment contract or comply with rules or policies of the training program, university, or training site
e. disruptive behavior; forcible detention, threats of physical harm to, or harassment of another member of the UCSF Fresno community
f. unauthorized use of UCSF Fresno resources or facilities on a significant scale for personal, commercial, political or religious purposes

Trainees and their supervisors are encouraged to discuss their concerns with one another and, if there are any disputes or disagreements, Trainees and their supervisors should make efforts to resolve them. The action(s) taken should be the one(s) that in the professional and/or academic judgment of the Program Director best address the deficiencies and needs of the individual Trainee and/or the GME training program. These actions are at the discretion of the department and UCSF Fresno and need not be progressive. The department and/or UCSF Fresno may select those action(s) described below which it deems appropriate.

The procedures set forth below are designed to provide UCSF Fresno trainees an orderly means of resolving differences. These Guidelines apply to all University-sponsored programs of Graduate Medical Education (GME). These Guidelines shall be the exclusive remedy for appealing reviewable academic actions at UCSF Fresno. Deviation from these procedures that does not result in material prejudice to the Trainee will not be grounds for invalidating the action taken. Some actions may require obligatory disclosure by the Trainee, institution, or training program in response to external inquiries, including those of state licensing boards or health care institutions. Additional time in the GME training program or beyond the expiration of the Trainee's appointment may be required to meet the educational objectives and certification requirements of the department or the specialty. The Trainee will be notified in writing of any requirements for additional time. Funding for additional time extending beyond the original period of appointment will be permitted only at the discretion of the University and upon written confirmation by the Program Director with concurrence of the Chief. Unless otherwise approved by the Program Director, academic credit will be given only for full participation in the regular program.

A Trainee, as part of his or her GME training program, may have responsibilities in a hospital, other clinical setting, or research area. All such appointments, either initial or continuing, are dependent upon the Trainee maintaining good standing in a GME training program. Dismissal from a GME training program will result in the Trainee's automatic dismissal from any and all related appointments such as medical staff membership.

The Grievance and Appeals Procedure flow diagram underscores that most actions are either non-appealable, or may be appealed to the Department Chief. Only non-renewal of appointment and dismissal from the training program are appealable to the Associate Dean's office. The structure of this policy follows that of the diagram.

I.B. Definitions

Academic Deficiency: The terms "Academic Deficiency" and "Deficiencies" mean unacceptable conduct or performance, in the professional and/or academic judgment of the Program Director including failure to achieve adequate progress or maintain good standing in the GME training program, or achieve and/or maintain professional standards of conduct as stated below.
Associate Dean: The term "Associate Dean" refers to the Associate Dean for UCSF Fresno Medical Education or his/her designee.
Chief: The term "Chief" means the Chief of the Trainee's specialty or subspecialty department, or his/her designee.
Clinical Competence Committee: The term "Clinical Competence Committee" means a regularly constituted committee of the School of Medicine or department that reviews the academic performance of Trainees, or a committee of faculty members specially selected by the Committee for the purpose of reviewing the academic performance of Trainees.
Competencies: The term "competencies" refers to the specific knowledge, skills, behaviors and the appropriate educational experiences required of residents to complete GME programs as defined by the Accreditation Council for Graduate Medical Education (Common Program Requirements 7/1/19):

a. **Professionalism**, as demonstrated through a commitment to professionalism and an adherence to ethical principles. Residents must demonstrate competence in accountability to patients, society, and the profession. They must show respect and responsiveness to a diverse patient population. They must have the ability to recognize and develop a plan for one's own personal and professional well-being.
b. **Patient Care and Procedural Skills** that is compassionate, appropriate, and effective for the treatment of health problems and the promotion of health.
c. **Medical Knowledge** about established and evolving biomedical, clinical, epidemiological and social-behavioral sciences as well as the application of this knowledge to patient care.
d. **Practice-Based Learning and Improvement** that involves the ability to investigate and evaluate their care of patients, to appraise and assimilate scientific evidence, and to continuously improve patient care based on constant self-evaluation and lifelong learning.
e. **Interpersonal and Communication Skills** that result in the effective information exchange and collaboration with patients, their families, and health professionals.
f. **Systems-Based Practice**, as manifested by demonstrating an awareness of and responsiveness to the larger context and system of health care, including the social determinants of health, as well as the ability to effectively call on other resources to provide optimal health care.

Days: The term "days" refers to calendar days However, in the event that a deadline falls on a weekend, any written notices or documentation will need to be submitted by the Monday immediately following that weekend.
Dismiss or Dismissal: For the purposes of Part III.A.2 of this Policy, the terms "dismiss" or "dismissal" mean expulsion from a GME Training Program.
GME Training Program: The terms "graduate medical education training program" or "GME training program" refer to the second stage of medical education, during which medical school graduates are prepared for independent practice in a medical specialty. The foremost responsibility of the GME training program is to provide an organized education program with guidance and supervision of Trainees, facilitating the Trainees' professional and personal development while ensuring safe and appropriate care for patients. Graduate medical education involves the development of clinical skills and professional competencies and the acquisition of detailed factual knowledge in a medical specialty. These professional standards of conduct include, but are not limited to, professionalism, honesty, punctuality, attendance, timeliness, proper hygiene, compliance with all applicable ethical standards and UCSF Fresno policies and procedures, an ability to work cooperatively and collegially with staff and with other health care professionals, and appropriate professional interactions with patients and their families.

A Trainee, as part of his or her GME training program, may have responsibilities in a hospital, other clinical setting, or research area. All such appointments, either initial or continuing, ar dependent upon the Trainee maintaining good standing in a GME training program. Dismissal from a GME training program will result in the Trainee's automatic dismissal from any and all related appointments such as medical staff membership.

Grievance: A grievance is defined as a complaint by a trainee that alleges that: (1) a specific administrative act was arbitrary or capricious and adversely affected the trainee's then-existing terms or conditions of appointment; and/or (2) a violation of applicable University rules, regulations, or policies that adversely affected the trainee's then-existing terms or conditions of appointment. For the purposes of this policy, an act is not arbitrary or capricious if the decision-maker exercised reasoned judgment.

HIPAA: The acronym "HIPAA" refers to the "Health Insurance Portability & Accountability Act of 1996", which mandates significant changes in the legal and regulatory environments governing the provision of health benefits, the delivery and payment of healthcare services, and the security and confidentiality of individually identifiable, protected health information. Trainees are required to undergo HIPAA training.

- Disclosure of protected health information, even where authorized by the regulations, must be limited to the "minimum necessary" to accomplish the purpose for which it is made. Note: this standard does not apply to requests by health care providers for treatment purposes.
- Patients have a right to receive a written notice at each visit describing the entity's privacy practices; access, inspect and copy their health records; request corrections/amendments to their health information; receive an accounting of disclosures of PHI, and; request restrictions on the use and disclosure of their protected health information.
- Protected health information can only be disclosed (1) after having the patient sign a consent or authorization to permit a particular use or method of disclosure, or (2) after "de-identifying" the information by removing the patient's name, address, telephone, birth date, social security number, names of relatives, names of employers, medical record numbers, health plan beneficiaries, and account number.

Failure to comply can result in civil and criminal monetary penalties of up to $250,000 and one to ten years of imprisonment.

A more comprehensive description of HIPAA and its requirements is available at http://www.ucsf.edu/hipaa/ and by the HIPAA compliance officers in each clinical department.

Medical Disciplinary Cause or Reason: The term "medical disciplinary cause or reason" applies to a Trainee who holds a license from the State Medical Board of California and means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care in accordance with Business and Professions Code section 805. Any resident with a probationary medical license must disclose this to the Program Director and the Associate Dean.

Non-Renewal of Appointment: A Trainee's appointment is for one year and is reviewed prior to the end of the seventh month of the contract. If the Program Director with concurrence of the Chief determines that the trainee is not progressing satisfactorily, he/she has the option of not renewing the Trainee's contract.

Professionalism: The term "professionalism" comprises a set of values manifest in behaviors that:

- demonstrate respect, compassion, and integrity; a responsiveness to the needs of patients and society that supersedes self-interest; accountability to patients, society, and the profession; and a commitment to excellence and on-going professional development;
- demonstrate a commitment to ethical principles pertaining to provision or withholding of clinical care, confidentiality of patient information including HIPAA requirements, informed consent, intellectual honesty and business practices, including refraining from unauthorized use of university resources, conformance and reporting of work hours;
- demonstrate sensitivity and responsiveness to patients' culture, age, gender, and disabilities; and
- demonstrate effective working relationships with members of the health care team, including respectful treatment of patients, colleagues, faculty and staff.

Program Director: The GME Training Program Director for the Trainee's specialty or subspecialty (or his or her designee). The Program Director has responsibility, authority, and accountability for: administration and operations; teaching and scholarly activity; resident recruitment and selection, evaluation, and promotion of residents, and disciplinary action; supervision of residents; and resident education in the context of patient care (ACGME Common Program Requirements 7/1/2019).
Reportable Incident: A reportable incident is defined as any event that is outside the normal bounds of professional practice or conduct (e.g., absence without leave, criminal misconduct, disruption of the health care team, dereliction of duty, dishonesty, endangerment of patient health and safety, verbal or physical abuse, substance abuse, and/or harassment).
Trainee: The term "Trainee" refers to any individual appointed by the University's School of Medicine to the titles of Resident Physician I-IX (title codes 2708, 2724), Chief Resident Physician (title code 2725), Resident Physician/Subspecialist IV-IX (title code 2726), Other Post-MD Trainee II-IX (title codes 2732), where specified by campus guidelines, or any other GME title assigned by UCSF.

II. ADMINISTRATIVE ACTIONS, NON-APPEALABLE ACADEMIC ACTIONS, AND ACTIONS APPEALABLE TO THE DEPARTMENT

II.A. Administrative Actions

II.A.1. Automatic Suspension

The Trainee will automatically be suspended from the GME training program for any of the following reasons:

a. failure to complete and maintain medical records as required by the medical center or site in accordance with the center's/hospital's medical staff bylaws and/or rules and regulations; or
b. failure to comply with state licensing requirements of the California State Medical Board after house staff have been restricted to non-clinical duties, used vacation or other appropriate leave if available; or
c. failure to obtain or maintain proper visa status or to provide visa or license verification; or
d. unexcused absence from the GME Training Program for five or more days.
e. failure to comply with HIPAA requirements

The period of automatic suspension should not exceed ten (10) days; however, other forms of administrative or academic action may follow the period of automatic suspension.

The Program Director or designee will promptly notify the Trainee of his/her automatic suspension in writing. In addition, for subsections b, c, d and e above, the Trainee will be provided the facts upon which the suspension is based and a written notice of the intent to consider the Trainee to have automatically resigned at the end of the suspension period (see Part II.A.2. below). The Trainee may utilize the suspension period to rectify (a) or to respond to the notice of intent under (b), (c) or (d) which may include correcting the problem identified in (b) or (c). If the Trainee is suspended under (a) and does not complete the medical records as required within the ten (10) day suspension period, other administrative or academic action may be instituted, including automatic resignation.
The Trainee will not receive any academic credit during the period of automatic suspension. The Trainee stipend will continue to be paid while the Trainee is on automatic suspension status.

II.A.2. Automatic Resignation

Automatic resignation will follow automatic suspension from the GME training program if the problem has not been rectified and will not entitle the Trainee to the procedures contained in Part III of these Guidelines. Reasons for automatic resignation include:

- Failure to Provide Visa or License Verification: Failure of the Trainee to provide verification of an appropriate and currently valid visa or verification of current compliance with state licensing requirements of the state Medical Board of California during the 10-day automatic suspension period may result in the Trainee's automatic resignation from the GME training program.
- Absence Without Leave: Trainees are expected to communicate directly with the Program Director in the event he or she is unable to participate in the training program for a period of time in excess of 48 hours. The Program Director may grant a leave in times of exceptional circumstances. If the Trainee is absent without leave, the Program Director should inform the

Trainee by the 5th day of absence that if a written explanation is not received by the 10th day of absence, then automatic resignation will result. Automatic resignation is effective on the 10th day of absence and the Trainee's stipend will continue for 10 additional (20 total) days. If a written explanation is received by the department within ten (10) days of the first day of absence without leave, the Program Director or designee will review the explanation and any materials submitted by the Trainee regarding the absence and will notify the Trainee of his/her decision within ten (10) days. Failure to explain in writing and adequately document the unexcused absence to the satisfaction of Program Director or designee in the specified time frame will result in the Trainee's automatic resignation from the GME training program. The Trainee's stipend will continue to be paid for twenty (20) days after the absence, or, if a written explanation is received within the specified timeframe, the stipend will continue to be paid until the matter is resolved.

If a resident resigns from training in the program, he/she waives his/her rights to move through the grievance/appeal process.

II.A.3.Leaves

Investigatory leave and conditional leave of absence are not intended to replace any leaves that a Trainee may otherwise be entitled to under state or federal law, or UCSF policy.

Investigatory Leave. A Program Director may place a Trainee on investigatory leave in order to review or investigate allegations of deficiencies or in circumstances where, in the judgment of the Program Director, the Trainee may pose a threat to public, patient or staff health or safety, in situations where the Trainee's own health or safety may be compromised, or where uncertainty exists regarding the trainee's ability to meet program expectations. The leave will be confirmed in writing, stating the reason(s) for and the expected duration of the leave. The alleged deficiency should be of a nature that warrants removing the Trainee from the GME training program. The Program Director should, as soon as practicable under the circumstances, complete an investigation and either return the Trainee to the program or initiate further action under these Guidelines. The Trainee will be paid for the period of investigatory leave.

Conditional Leave. A conditional leave of absence from the GME training program may be provided only under exceptional circumstances, upon the Trainee's written request, and at the Program Director's discretion with concurrence of the Chief. At the end of the conditional leave, the Program Director will determine whether to re-admit the Trainee conditionally, unconditionally, on probation, or to seek the Trainee's dismissal pursuant to the procedures contained in these Guidelines. The Trainee will not be paid a stipend for the period of the conditional leave. Potential uses of conditional leave include, but are not limited to, illness beyond sick leave limitations, personal leave to care for a personal or family emergency, or pursuit of an educational opportunity not related to the training program. In granting the request for leave the Program Director will specify in writing the acceptable time frame and any conditions for return.

II.A.4. Reportable Incidents

When a reportable incident involving a resident or fellow occurs, it shall be promptly reported to the Residency Program Director and the Associate Dean. If criminal conduct or threats to patient or staff safety are involved, hospital security/local police should be contacted immediately and UCSF Fresno risk management should be contacted as well. In addition, some incidents may require obligatory reporting by the institution to external agencies or disclosure in response to external inquiries, including those of state licensing boards, health care institutions, the National Practitioner Data Bank, or law enforcement agencies. Any time a trainee's performance or conduct is judged to be detrimental to the care of patients, the Residency Program Director will promptly provide written notification to the site directors at affiliated hospitals and to the Associate Dean.

Investigating minor reportable incidents. This includes incidents that may not directly jeopardize patient health and safety but are worrisome and concerning to those involved (e.g., unprofessional and disrespectful communications with patients or members of the health care team). The Program Director shall investigate in consultation with the Associate Dean. At a minimum, the Program Director shall collect as much information as possible about the incident from those directly involved and shall report findings to the residency program committee, the department Chief, and the Associate Dean.

Appropriate action under the applicable academic policy and any other University Policies or regulations shall be taken.

Investigating serious reportable incidents. These include unprofessional behavior that jeopardizes patient health and safety, the effective functioning of the health care team and/or involves criminal misconduct. When serious concerns or complaints arise, an investigation should commence immediately. If criminal misconduct or threats to patient or staff safety are involved, hospital security/local police should be contacted immediately and UCSF Fresno risk management should be called as well. The Program Director, the Associate Dean, Campus Counsel, hospital Medical Director, UC Risk Management office, and UCSF Investigation Group may also need to be involved. In addition, at the discretion of the Campus Counsel, information about the incident under investigation may be shared with other appropriate University individuals at training sites where the Trainee would be rotating during the course of the investigation.

The investigation may include but is not limited to: 1) interviewing everyone involved in the incident including the resident or fellow, 2) placing the resident or fellow on investigatory leave, and/or any other appropriate actions under University Policy. Once the incident has been investigated, appropriate University Policies shall be followed and monitored by the Program Director and the Associate Dean.

In extraordinary circumstances, the university may have compelling reasons to take over an investigation and dismissal proceedings of a Trainee. Such circumstances might include criminal misconduct by a Trainee or inability of program faculty to complete a thorough and impartial investigation and dismissal determination. In such instances, the Associate Dean in consultation with Campus Counsel will investigate, and if need be, convene an ad hoc review panel of three residency program directors that are from other departments to make a finding of fact and a recommendation regarding appropriate actions that might include reinstating the Trainee, placing the Trainee on probation, dismissing the Trainee or other actions deemed appropriate. The Trainee would still be entitled to all relevant grievance and appeal procedures. Following a factual determination and institution of discipline, unless the discipline is dismissal, information relating to the action should be shared with the UC Risk Management office or other appropriate University individuals at training sites where the Trainee will rotate.

II.B. Non-Appealable Academic Actions

The following actions are non-reviewable and may or may not be used sequentially: 1) Counseling Letter, 2) Notice of Concern.

II.B.1. Counseling Letter

A counseling letter may be issued by the Program Director to a Trainee to address an academic or professional deficiency that needs to be remedied or improved. The purpose of a counseling letter is to describe a single instance or pattern of problematic behavior or interaction and to recommend actions to rectify the behavior. The Program Director will review the counseling letter with the Trainee. Failure to achieve immediate and/or sustained improvement, or a repetition of the conduct may lead to other disciplinary actions. These actions are determined by the professional and academic judgment of the Program Director and need not be sequential. For the purposes of this policy and for responses to any inquiries, a counseling letter does not constitute a disciplinary action.

II.B.2. Notice of Concern

A notice of concern may be issued by the Program Director to a Trainee who is not performing satisfactorily. Notices of concern should be in writing and should describe the nature of the deficiency and any necessary remedial actions required on the part of the Trainee. A Letter of Concern is typically used when a pattern of problems emerges. The Program Director will review the notice of concern with the Trainee. Failure to achieve immediate and/or sustained improvement, or a repetition of the conduct may lead to additional actions. This action need not follow a letter of concern nor precede other academic actions described later in this document, and does not constitute a disciplinary action.

II.C. Academic Actions Appealable to the Department

Trainees that do not meet acceptable levels of professional competence or do not progress at a satisfactory pace may be subject to the following academic actions that are appealable to the Department's Clinical Competence Committee: 1) Academic Probation, 2) Suspension, 3) Adverse Annual Evaluation, 4) Requirement that Trainee Must Repeat an Academic Year, and 5) Denial of a

University Certificate of Completion of Training. The Department Clinical Competence Committee is advisory to the Department Chief. Some actions may require obligatory disclosure by the Trainee, institution, or training program in response to external inquiries, including those of state licensing boards or health care institutions.

II.C.1. Academic Probation

Trainees who are in jeopardy of not successfully completing the requirements of a GME training program may be placed on academic probation by the Program Director. Conditions of academic probation will be communicated to the Trainee in writing and should include: a description of the reasons for the probation, any required remedial activity, and the specific time frame for the required remedial activity. Failure to correct the deficiency within the specified period of time may lead to an extension of the probationary period or to other academic actions. Probation should be used instead of a notice of concern when the underlying deficiency requires added oversight.

II.C.2. Suspension

The Program Director or Chief may suspend the Trainee from part or all of the Trainee's usual and regular assignments in the GME training program, including, but not limited to, clinical and/or didactic duties, when the removal of the Trainee from the clinical service is required for the best interests of patients, staff and/or Trainee. The suspension will be confirmed in writing, stating the reason(s) for the suspension and its duration. Suspension generally should not exceed sixty (60) calendar days. Suspension may be coupled with or followed by other academic actions. The Trainee's stipend will continue to be paid while the Trainee is on suspension status.

II.C.3. Adverse Annual Evaluation

A Trainee may request a review by the Department Clinical Competence Committee for an annual evaluation that is adverse (overall unsatisfactory or marginal). Trainees will be notified by the Program Director of any overall marginal or unsatisfactory evaluations or letters sent to their specialty/subspecialty board.

II.C.4. Requirement That Trainee Must Repeat an Academic Year

A Trainee may be required to repeat an academic year in lieu of dismissal from the Program due to unsatisfactory progress in the training program or for other problems. The decision whether to permit the Trainee to repeat an academic year is at the sole discretion of the Program Director with concurrence of the Chief.

II.C.5. Denial of University Certificate of Completion

If the Program Director, in consultation with the Chief, decides not to award the Trainee a University Certificate, the Program Director will notify the Trainee as soon as reasonably practicable of this intent and the basis thereof.

II.C.6. Change of Record

A Trainee may seek a correction or deletion to his/her personal/employee record by submitting a written request to the Program Director for a review by the Department's Clinical Competence Committee. Within thirty (30) days of receipt of such a written request, the Clinical Competence Committee will recommend to the Program Director to either make the amendment or deletion, or inform the individual in writing that the request has been denied. Within thirty (30) days of the Program Director's response, the Trainee may request that the Chief review the request to amend or delete the record. The Chief will respond to the individual in writing within thirty (30) days from the receipt of the review request. If the Chief refuses to amend or delete the record, the Trainee shall have the right to enter into the record a statement setting forth the reasons for the Trainee's disagreement with the record.

II.D. Department Clinical Competence Committee Appeal Procedures

The Trainee will be notified as soon as reasonably possible that s/he has received an overall marginal or unsatisfactory annual evaluation, or is being placed on probation or suspension, or is required to repeat the current academic year, or will not be granted a University Certificate. The Trainee will be informed of the grievance policy and the person to contact if s/he desires to appeal the Program's decision or wishes a change of record.

To request a review of the Program's decision regarding subsection II. C. (1)-(5) above by the Department Clinical Competence Committee, the Trainee must, within ten (10) days from the date of the notice, provide the Chief or Program Director with a written statement detailing the reasons s/he believes s/he should not be placed on academic probation, or should not be required to repeat the academic year, or should not have received an overall marginal or unsatisfactory evaluation, or should be granted a University Certificate of Completion of Training. The Chief or Program Director will convene the Department Clinical Competence Committee to review the Trainee's statement within ten (10) days of its receipt or as soon as practicable. The Trainee must appear at the Department Clinical Competence Committee hearing. Failure to appear in person will be deemed a voluntary dismissal of his/her complaint, acceptance of the academic action, and waiver of the right to appeal. While attorneys are not allowed in the hearing of the Department Clinical Competence Committee, the Trainee may be assisted by another person of his/her choice. The Department Clinical Competence Committee will orally notify the Trainee of its decision within three (3) days of its meeting, and provide the Trainee a written decision within ten (10) days of the oral notification. Prior to notifying the resident of the committee's decision, program directors are encouraged to review the action with the Associate Dean. The decision of the Department Clinical Competence Committee is final.

III. ACADEMIC ACTIONS NON-RENEWAL OF CONTRACT AND DISMISSAL

III.A. Grounds for Action

Trainees may request the Associate Dean to review the following actions after review at the department level: 1) Non-Renewal of an Annual Contract; or 2) Dismissal from the GME Training Program, including termination of appointment at any time for an academic deficiency and/or a medical disciplinary cause or reason.

III.A.1. Non-Renewal of an Annual Contract

If a Trainee's contract is not renewed, whether or not the Trainee has been subject to any other actions, the decision may be appealed to the Associate Dean after review by the departmental Clinical Competence Committee and department Chief.

The Trainee's appointment is for a one-year period, which is normally renewed annually. Due to the increasing level of responsibilities and increasing complexity of clinical care over the course of the Trainee's training, satisfactory completion of prior academic year(s) or rotation(s) does not ensure satisfactory proficiency in subsequent years or rotations. A Trainee may have his/her appointment not renewed at any time there is a demonstrated failure to meet programmatic standards.

The Program Director should provide each Trainee with a written evaluation at least twice per year. The Trainee should be evaluated by the end of the sixth month of the appointment term. If, prior to the end of seven months but not later than February 28, the Program Director with concurrence of the Chief concludes that the Trainee's appointment should not be renewed for the following year, the Program Director will notify the Trainee that his/her appointment will not be renewed for the following academic year. The Trainee will be permitted to conclude the remainder of the academic year unless additional academic action is taken. Decisions not to renew the contract made subsequent to the 7th month, or after February 28th of the calendar year, constitute dismissal from the training program (see below).

III.A.2. Dismissal from GME Training Program

Based on the Program Director's discretion with concurrence by the Chief, a Trainee may be dismissed from a GME training program for academic deficiencies or medical disciplinary cause or reason. This action is appealable to the Associate Dean after review by the departmental Clinical Competence Committee. Reasons for dismissal may include but are not limited to the following:

a. A failure to achieve or maintain programmatic standards in the GME training program;
b. a serious or repeated act or omission compromising acceptable standards of patient care, including but not limited to an act which constitutes a medical disciplinary cause or reason;
c. unprofessional, unethical or other behavior that is otherwise considered unacceptable by the GME training program;
d. a material omission or falsification of a GME training program application, medical record, or University or medical document, including billing records. Any allegation regarding failure to comply with UCSF's billing rules shall be forwarded to UCSF's Corporate Compliance Officer

and/or the Office of General Counsel for resolution in accordance with UCSF's Corporate Compliance Program.

III.B. No Duplicate Hearings

If a Trainee's participation in the GME Training Program is denied, terminated or limited for academic or disciplinary reasons, the Trainee shall be entitled to request notice and, as appropriate, review and/or a hearing in accordance with the procedures set forth herein; provided, however, that in no event shall Trainee be entitled to more than one review or hearing of the same action based on the same set of facts under these procedures or pursuant to the Affiliate's Medical Staff Bylaws.

III.C. Notice of Reasons for Non-Renewal or Dismissal

The Trainee shall receive in writing the reasons for non-renewal or dismissal. Such notice shall include whether any action or recommended action, if adopted, shall be taken and reported to the Medical Board of California and/or the National Practitioner Data Bank.

III.D. Non-Renewal and Dismissal Procedures

The procedures contained in Part III.D of these Guidelines apply only to the actions reviewable by the Associate Dean, as listed in Part III.A of these Guidelines. Failure to file a written appeal or notice of action within thirty (30) days will be deemed an acceptance by the Trainee of the academic action and s/he will lose the opportunity to appeal.

III.D.1. Level One - Informal Review

If the Program Director with concurrence of the Chief or his/her designee, determines that grounds exist to non-renew or dismiss a Trainee from the training program, the Program Director will provide the Trainee with a written notice of the intent to non-renew or dismiss. This notice will include a statement of the reason(s) for the intended non-renewal or dismissal, a copy of the materials upon which the intended non-renewal or dismissal is based, and a statement that the Trainee has a right to respond in writing to the Chief or his/her designee within ten (10) calendar days of receipt of the notice. If the Trainee submits a written response within the ten-day period, the Chief or his/her designee will review it. After reviewing the Trainee's written response (if any), the Chief will decide whether non-renewal or dismissal is appropriate. Within ten (10) days thereafter, the Program Director will notify the Trainee of the Chief's (or his/her designee's) decision by letter, which shall also be copied to the Associate Dean. If the decision is to uphold the proposed dismissal, the letter should include the reasons for upholding the proposed non-renewal or dismissal, provide the effective date of the non-renewal or dismissal, and include a copy of these guidelines. Attempts at informal resolution shall not extend the time limits for filing a formal grievance unless the Trainee and the Program Director so agree, or upon the approval of the Associate Dean. The Trainee will continue to receive regular stipends until the effective date of the non-renewal or dismissal.

III.D.2. Level Two - Formal Review

If the Trainee wishes to appeal the decision to non-renew or dismiss, the Trainee ("Complainant") must file a written appeal with the Associate Dean no later than twenty (20) days after the Chief's decision is received by the Trainee. The written complaint should explain concisely why the Complainant believes the Chief's decision was unfounded or arbitrary and capricious, and should address each specific reason for the dismissal set forth in the Program Director's notice of intent to dismiss.

The Complainant may be assisted or represented by another person at his or her own expense. UCSF Fresno may also be represented. If the Complainant is represented by an attorney, he/she shall notify the UCSF Fresno within twenty (20) days prior to the hearing (or ten (10) days prior to the prehearing conference as specified below. The Complainant must appear in person at the hearing, for the full duration of the hearing, even when represented. If the Complainant has not communicated with anyone prior to the hearing, this will be considered as abandoning the appeal process and therefore deemed voluntary dismissal of his/her complaint. Except for good cause, as determined by the Ad Hoc Formal Review Committee, the failure of the Trainee to appear in person at the hearing will be deemed a voluntary dismissal of his/her complaint.

Within ten (10) days of receipt of the appeal, or as soon thereafter as is practicable, an Ad Hoc Formal Review Committee shall be appointed by the Associate Dean to hear the complaint. The Committee will

consist of three to five members, at least one of whom shall be a member of the full-time faculty, one senior trainee (PGYIII or higher), and one member of the GMEC. The Associate Dean will designate one of the Committee members to be the Committee Chair. One of the Committee members should be from the same department as the Complainant. In addition, individuals who were substantially involved in any earlier review of the issues raised in the complaint, or who were substantially involved in any incident underlying the grievance should not sit as a member of the Committee. The Committee may, at its discretion, request that an attorney from the Office of the General Counsel be appointed to provide independent legal counsel to the Committee. This attorney shall not vote in the Committee's deliberation process. The Committee will handle all procedural matters during the pendency of the hearing. At all other times, the Associate Dean will resolve all issues related to these procedures.

The Hearing will ordinarily be held within forty-five (45) days of receipt of the appeal by the Associate Dean. An extension may be granted by the Associate Dean if necessary. Unless otherwise agreed by the Parties and the Chair of the Committee, the Complainant and his/her advocate(s), if any, will meet at least fifteen (15) days prior to the Hearing at a prehearing conference with the Committee Chair and the UCSF Fresno representative and UCSF Fresno advocate(s) (if any) to agree upon the specific issues to be decided by the Committee. Absent a showing of good cause, these issues will be limited to the reasons stated in the written notice of intent to dismiss (III.C) and the Trainee's written response to that notice (III.D.2). If the parties are unable to reach an agreement on the issues to be decided, the Committee Chair will determine the issues to be reviewed. At this conference, the parties may raise other procedural and substantive issues for decision by the Chair. The Chair may be advised by university counsel.

At least seven (7) days prior to the Hearing, or at another date agreed to by the Parties and the Chair of the Committee, all documents to be introduced as evidence at the hearing and names of all witnesses shall be exchanged. With the exception of rebuttal witnesses and documents used in rebuttal, any witnesses not named and documents not exchanged seven days before the hearing may, at the Committee Chair's discretion, be excluded from the Hearing. If no documents or witness lists are provided, this will be considered as abandoning the appeal process and therefore deemed voluntary dismissal of his/her complaint.

The Hearing will provide an opportunity for each party to present evidence and to cross examine witnesses. The Committee Chair has broad discretion regarding the admissibility and weight of evidence and is not bound by federal or state rules of evidence. The Committee Chair will rule on all questions of procedure and evidence. The hearing will be recorded on audio tape by the UCSF Fresno unless both parties agree to share the cost of a court reporter, or one party elects to pay the entire cost for the court reporter in order to have a transcript for its own use, in which case the other side may purchase a copy of the transcript for half the cost of the court reporter and transcription, plus any copy costs. The Complainant may listen to the audio tape and may purchase a copy of the audio tape. The Associate Dean, or his/her designee, will be the custodian of the audio tape and/or any stenographic records, and will retain the recording for five (5) years from the time the Associate Dean's decision becomes final.

Unless both the Complainant and the University agree to an open hearing, the hearing will be closed. All materials, reports and other evidence introduced and recorded during the course of a closed proceeding may not be disclosed until the final resolution of the complaint under these procedures except as may be required by applicable law. At the request of either party or the Committee Chair, only the witness testifying may be present and other potential witnesses will be excluded temporarily. However, the Complainant, his/her advocate(s) and the University's representative(s) and its advocate(s) will at all times have the right to attend the hearing.

The Complainant has the burden to prove by a preponderance of evidence that the dismissal was not reasonable, nor based upon all the facts and circumstances of the case, (i.e., arbitrary and capricious) through documentary and testimonial evidence. The University will present evidence in support of the Program Director's decision. Thereafter, the Complainant will present his/her evidence. The parties shall have the opportunity to present rebuttal evidence. The Committee Chair has the right to limit rebuttal evidence in his/her discretion. At the discretion of the Committee, briefs may be submitted. The Committee Chair will determine the appropriate briefing schedule (if any). If briefs are not requested, each party shall have the opportunity to present a closing statement. Following the close of the Hearing, including receipt of any briefs, the Committee will present its written recommendation(s) to the

Complainant, the Chair, Program Director and the Associate Dean. The recommendation(s) should occur, absent unusual circumstances, within fifteen (15) days of the Hearing's conclusion, or if briefs are submitted, within fifteen (15) days of the date the briefs are submitted.

The Committee will evaluate the evidence presented and shall prepare a recommended decision which shall contain written findings of fact and conclusions. The action of the Program Director, as approved by the Chair, will be upheld if the Committee finds that the Trainee has not met his/her burden and established by a preponderance of the evidence that the Chair's decision was arbitrary and capricious. The recommended decision shall become final after fifteen (15) days unless appealed pursuant to part III. E

III.E. Appeal

Within fifteen (15) days of receipt of the Committee's recommendation(s), either party may submit a final written appeal of the Committee's decision to the Associate Dean. Any such response submitted to the Associate Dean must be limited to:

a. Whether the record presented to the Committee contained sufficient evidence to support the Committee's recommendation; or
b. Whether there is new evidence that could not reasonably have been introduced at the hearing and would be likely to change the result.

After receipt of the Committee's recommended decision, the parties' written response (if any), and the record, the Associate Dean within sixty (60) days, or as soon as reasonable thereafter, will take any action deemed appropriate, including upholding the Committee's recommended decision, rejecting the Committee's recommendation or remanding the matter back to the Committee with instruction for further review and recommendation. The Associate Dean's ultimate decision will be final and will be in writing and shall be sent to the Program Director, the Chief, the Complainant and the Committee Chair and, if the action was taken for medical disciplinary cause or reason, to the Medical Board of California.

III.F. Remedy

If the Complainant is reinstated, the remedy will not exceed restoring the Complainant's stipend payment, benefits, or any rights lost as a result of the action, less any mitigating income earned from other sources.

(Original signed Policy is available in the UCSF Fresno Graduate Medical Education Office)

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Michael Peterson, MD, Associate Dean, Chair GMEC