

Policy #: 016.002
Policy Title: Trainee Grievances
Sponsor: David Brown, MD; DIO
Approved by: Graduate Medical Education Committee

Purpose

Florida International University (FIU) has adopted the following policy to serve as the formal process for trainees to submit grievances relating to Accreditation Council of Graduate Medical Education’s (ACGME)-accredited residency programs at the program and/or institutional level.

This policy addresses ACGME Institutional Requirement *IV.E Grievances: The Sponsoring Institution must have a policy that outlines the procedures for submitting and processing resident/fellow grievances at the program and institutional level and that minimizes conflicts of interest.*

Definition

Grievance: A dispute or complaint made by a trainee in any ACGME-accredited programs to express dissatisfaction with an act, condition, or decision made by the institution, program leadership, faculty, staff, or peers; such that the act, condition, or decision affecting his or her program of study is arbitrary, illegal, unjust or creates unnecessary hardship. This includes, but is not limited to dismissal, non-renewal of trainee contract, or other actions that could significantly threaten a trainee’s intended career development.

Interpersonal Complaints: These are non-grievable problems.

When an interpersonal problem arises, the trainee is encouraged to initially discuss his or her complaint with the person(s) alleged to have caused the problem (trainee, faculty member, healthcare provider, etc.). The discussion should be held as soon as the trainee becomes aware of the act or condition that is the basis for the complaint.

If the trainee is not satisfied with the response, the trainee should discuss the problem with their Program Director. Issues can best be resolved at this stage and every effort will be made to achieve a mutually agreeable solution. If the trainees’ grievance is against a member of the organizational structure (PD, DIO), and cannot be resolved by discussion with that person, the trainee should address their grievance to the next level of authority (DIO, Dean) in the process. Interpersonal complaints will not be further addressed in this policy.

Background

The residency program and Program Director (PD) are responsible for the conduct of the program and for the policy on defining satisfactory performance of the trainee. The Sponsoring Institution, FIU, wishes to ensure that the application of such policies are not arbitrary, illegal, unjust, or create unnecessary hardship. Therefore, a policy and procedure for addressing trainee dissatisfaction is established.

Grievance matters are those relating to the provisions of the Appointment Agreement. Questions of capricious, arbitrary, punitive or retaliatory actions or interpretations of the policies governing Graduate Medical Education on the part of any faculty member or representative of the program are subject to the grievance process. Complaints of harassment or sexual harassment will be handled in accordance with the specific published policies of Florida International University and the Herbert Wertheim College of Medicine (HWCOM).

Complaints made by trainees against actions on the part of the Program or related faculty members based solely on academic or clinical performance including but not limited to failure to attain the educational objectives or requirements of the training program are not subject to interpretation and therefore cannot be grieved.

Policy

Programs must develop fair and consistent standards for trainees. FIU requires that trainees be provided a fair and reasonable opportunity for due process and grievance. If a trainee feels that a decision by the Program violates standards of fairness, then the trainee is afforded a process whereby individuals outside the program may review such decisions. That process is detailed in the section below. The trainee will not be entitled to legal counsel during the grievance process.

Procedure

Grievance Process

The grievance process is specific to grievance matters, as stated above.

If the trainee poses a risk to patients or himself/herself, the trainee may be immediately removed from clinical duties at the discretion of the Program Director.

Level 1: Informal Resolution

- a. The trainee will seek to resolve grievance matters, as stated above with the Program Director.

Level 2: Formal Grievance

- a. If the grievance is not resolved to the satisfaction of the trainee after discussion with the Program Director, the trainee has the option to present the grievance, in writing, to the Office of Graduate Medical Education, specifically the Designated Institutional Officer (DIO).
- b. The DIO will meet with the trainee, the Program Director, and any other person deemed relevant to the grievance to determine the validity of the grievance and to determine the appropriate action to be taken.
- c. The DIO will provide the trainee with a notification of proposed action in writing.

Level 3: Appeal Hearing Panel

- a. If the grievance is not resolved to the satisfaction of the trainee after discussion with the DIO, the trainee has the option to request an appeal hearing.
- b. A trainee who wishes to request such an appeal hearing must do so within five (5) business days after notification of the proposed action. The trainee must:
 - i. Submit the request for a hearing in writing to the office of Graduate Medical Education.
 - ii. State the reason(s) for the request with a complete description of the basis for the grievance.
- c. The GMEC will create an ad hoc committee, the Appeal Hearing Panel, comprised of three persons, with one member of the committee appointed Chair by the DIO.
- d. The DIO will arrange the date, time and location of such a hearing.
- e. The Chair must convene a meeting of the Appeal Hearing Panel within fifteen (15) business days of receipt of the request for a hearing using the guidelines described below.
 - i. The trainee may choose to attend or not to attend the hearing.
 1. Failure to request or to attend the hearing will be construed as a waiver of the trainee's right to be heard prior to possible disciplinary action. This will also waive the trainee's right to any further appeal of the disciplinary action.
 - ii. The trainee has the right to select a faculty member from their program to serve as their representative at the hearing.
 - iii. The Program Director shall designate a person to represent the program at the hearing.
 - iv. All parties shall receive adequate notice of the complaint and opportunity to present evidence.
 - v. Additional evidence may be requested by the Appeal Hearing Panel.
 - vi. The GME office shall document and maintain a transcript of the hearing.
- f. Conduct of the Appeal Hearing:
 - i. The trainee and Program Director shall present evidence, including the testimony of voluntary witnesses.
 - ii. Hearing procedures will be considered informal and non-adversarial. FIU Counsel may, at the discretion of the DIO, attend the Appeal Hearing.
 - iii. The recommendation of the panel, regarding the findings and proposed actions, will be made within three (3) business days of the hearing date and communicated in writing to the GMEC. The recommendation will state findings and reasons for the recommendation.
- g. Receipt of the Appeal Hearing Panel's recommendation
 - i. The recommendation(s) of the Appeal Hearing Panel to the GMEC shall be deemed advisory in nature, and may be accepted, rejected or modified, in whole or in part, by the GMEC.

- h. Determination of outcome Appeal Hearing Panel
 - i. The GMEC shall initiate any action, including disciplinary or corrective action, as appropriate and such action shall be communicated to the trainee, Program Director and DIO in writing within three (3) business days of receipt of the Appeal Hearing Panel's recommendations.
 - ii. The trainee shall be informed of the right to a Final Appeal to the Dean of Florida International University's Herbert Wertheim College of Medicine.

Level 4: Final Appeal

- a. If the grievance is not resolved to the satisfaction of the trainee after the GMEC determines the most appropriate action the trainee will be entitled to a Final Appeal. Such appeal must be submitted in writing to the Dean of FIU HWCOM within five (5) business days of receipt of notice of the GMEC's determination of action.
 - i. If such an appeal is not requested within the time indicated, the trainee shall be deemed to have waived his/her right to such an appeal and to have accepted the decision of the GMEC.
- b. The Dean shall schedule a date for the Final Appeal, including a time and place for oral presentation if such has been requested by the trainee.
 - i. The Final Appeal shall take place within seven (7) business days after the trainee has submitted a request for a Final Appeal.
 - ii. The Final Appeal shall include all documentation from previous meetings and appeals. *The trainee will not be permitted to introduce new information at the Final Appeal.*
- c. The Dean will issue a final decision within fourteen (14) business days of the Final Appeal, unless more time is required by the Dean. In such case the Dean shall notify the parties of the expected time frame of the issuance of his decision but not to exceed an additional fourteen (14) business days.
- d. The decision of the Dean is final and binding. Any action(s) taken in good faith by the Dean addressing the grievance is final.
- e. Failure of the Trainee to submit his/her concerns to writing, failure to meet time allowances, or failure to be present at any of the above steps constitutes a waiver of his/her right to appeal.

Level 1: Informal Resolution

- Discuss grievance with PD

Level 2: Formal Grievance

- Submit a formal, written grievance to the DIO
- DIO to set meeting(s) with relevant individual(s) and review materials relevant to the grievance
- DIO will provide proposed action in writing to resident

Level 3: Appeal Hearing Panel

- Trainee will request Appeal Hearing Panel
- GMEC & DIO will assemble Appeal Hearing Panel
- GMEC will accept, reject, or modify recommendation of Appeal Hearing Panel

Level 4: Final Appeal

- Trainee will submit Final Appeal to Dean, FIU HWCOM
- Dean will issue final decision regarding grievance matter

Related Policies

Trainee Promotion and Appointment Renewal

Author	Maryam Shakir	11/21/2019
Revised		08/24/2024
DIO Review	David Brown, MD	08/26/2024
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