

Project Vida Health Center
Graduate Medical Education
Policies and Procedures

Adverse Actions Appeal Policy

APPROVED: 1/31/2024

EFFECTIVE DATE: 1/31/2024

REVISED:

Policy Statement: The Graduate Medical Education Committee (GMEC) at Project Vida Health Center is committed to providing a structured and fair process for addressing adverse actions concerning residents. This policy outlines the procedures and guidelines for handling adverse actions, which may include suspension, non-renewal, non-promotion, or dismissal, while ensuring due process and the rights of the residents.

Purpose: The purpose of this policy is to define the steps and processes for addressing adverse actions, including the investigation, notification, and resolution of issues affecting residents' training and performance.

Definitions:

- **Adverse Action:** A formal action taken by the GME program that negatively impacts a resident's status, such as suspension or dismissal.
- **Due Process:** The right of residents to fair treatment, including notice, an opportunity to be heard, and appeal when facing adverse actions.

Throughout graduate medical education training, residents are anticipated to advance and acquire proficiency in the knowledge and skills specific to their training specialty. An adverse action arises when a disciplinary action is needed (see Disciplinary Policy). It may be due to deficiency in the resident's performance. Some disciplinary actions such as Administrative, Verbal and Written Warning, Observation, Probation are not appealable. This policy outlines how an adverse action will be addressed and the appeal process. Only a single appeal is allowed per each adverse action taken.

Notification:

The program director has 3 days to meet the resident from the date which it was decided on to serve the resident with an adverse action. The program director will provide:

1. Written documentation of the adverse action and a remediation plan should include: A recommendation of the specific Disciplinary Action to be taken

- a. A description of the Academic Deficiency(ies) and/or incident(s) of Misconduct that are the basis for the Disciplinary Action
 - b. The specific remedial action or improvement that is required, unless the Corrective Action is dismissal or non-renewal
 - c. A defined period of time with a start and end date for improvement (if applicable)
 - d. Copy of this policy for the appeal process. The Resident should be requested to co-sign the notice to acknowledge receipt. If in person delivery is not possible, the notice of recommendation will be delivered to the Resident's residence by certified mail/return receipt requested or by national overnight courier service.
2. A copy of the signed Disciplinary Action notice of recommendation must be placed in the Resident's file and forwarded to the GME Office.
 3. The program director will note if the resident refuses to sign.

The DIO will receive notification within three days of formally notifying the resident in writing about the adverse action if the DIO is not the Program Director. Appeal Process:

The resident has five-business-day, starting from the day they receive notice of the adverse action, to submit a written appeal request to the DIO if the DIO is not the program director. If the DIO is the Program Director, the appeal should be submitted to the Program Director and the GME Coordinator. This request requires supporting facts, the resident's reasons for contesting the adverse action, and the remedy sought. Administrative Actions are not appealable, see Disciplinary Policy.

- The resident has the burden to demonstrate, by a preponderance of the evidence, that the Disciplinary Action issued by the program was arbitrary and capricious. A preponderance of the evidence means it is more likely than not. Arbitrary and capricious means there was no reasonable basis for the program's decision to take the Disciplinary Action.

If the resident chooses not to appeal or does not submit the appeal request within five business days, the resident will be considered to have forfeited their right to appeal the adverse action, and the adverse action will be considered as the final decision.

If the DIO is the program director, an ad hoc appeals committee will be formed and oversee the appeal.

DIO or ad hoc appeals committee will review the resident's written appeal for compliance in requirements. If the resident follows the procedure outlined in the appeals process and all requirements are met the ad hoc committee consists of two GMEC members and a resident representative preferably the house staff president. Faculty from the resident's department will not be included as well as those who were involved in recommended adverse action.

The resident will have no clinical duties during the appeal process however, is allowed to participate in other curricular activities at the discretion of the program director. A decision to suspend a Resident's clinical activities must be reviewed within three (3) calendar days by the programs Clinical Competency Committee (CCC). This review will determine whether the Resident can resume clinical activities and whether any additional actions, such as counseling, remediation, fitness for duty evaluation, or possible dismissal, are warranted. If the CCC recommends suspension, the decision must also be reviewed by the DIO if the DIO is not the Program Director.

Adverse Actions Outline Process:

1. **Initiation of Adverse Action:** Adverse actions may be initiated by the Program Director based on resident performance, violations of program or center's policies and procedure, or other factors affecting the training environment.
2. **Notice:** Residents facing potential adverse actions will receive written notice specifying the reasons for the action, the evidence supporting it, and the proposed action.
3. **Informal Meeting:** Residents will have the opportunity to meet with the Program Director to discuss the adverse action, present their perspective, and attempt to resolve the issue informally.
4. **Formal Hearing:** If the adverse action is not resolved informally, a formal hearing will be scheduled. Residents have the right to present their case, including evidence and witnesses, before an impartial committee or individual.
5. **Notification of Outcome:** Residents will receive a written notice of the hearing outcome, including the committee's findings and the final action taken.
6. **Appeal Process:**

Residents have the right to appeal the adverse action by following the established appeal process. The appeal will be reviewed by an independent committee, and a final decision will be communicated.
7. **Documentation:**

All records related to adverse actions and appeals will be maintained in the resident's personnel file, following confidentiality and retention policies.

IV. Non-Retaliation:

Project Vida Health Center GME program prohibits retaliation against residents who exercise their rights under this policy or participate in the adverse actions process.

V. Confidentiality:

All parties involved in the adverse actions process are expected to maintain strict confidentiality to the extent permitted by law.

VI. Review and Revision:

This policy will be periodically reviewed and updated to ensure its continued effectiveness and compliance with institutional standards.

VII. Implementation:

This GME Adverse Actions Policy is effective immediately upon issuance and will be communicated to all residents and relevant stakeholders. It will also be included in the resident handbook and made readily available for reference.

This policy ensures that adverse actions are handled in a transparent, fair, and consistent manner while respecting the due process rights of residents in the GME program at Project Vida Health Center.