

# YALE-NEW HAVEN MEDICAL CENTER (YNHMC)

## POLICIES AND PROCEDURES

Subject: Grievance Policy

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Distribution: All ACGME Accredited, ABMS Accredited and GMEC Approved Programs

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### **Introduction:**

Yale-New Haven Medical Center seeks to provide a supportive and inclusive educational, training, and professional environment. The Yale Graduate Medical Education community seeks to foster sound communications between Specialty Residents, Subspecialty Fellows (hereafter known as Residents) and their training program leadership, faculty, and their respective Chiefs of Service, and to ensure that problems arising within the programs are appropriately discussed and resolved. The purpose of this “Grievance Policy” is to provide a formal mechanism to resolve specific matters that cannot be resolved through discussions or processes within the trainee’s program and is only applied after reasonable efforts have been made to settle the matter informally.

It is the intent of this policy to ensure compliance with ACGME requirement *IV.D.1.b*): *The Sponsoring Institution must have a policy that provides residents/fellows with due process relating to the following actions regardless of when the action is taken during the appointment period: suspension, non-renewal, non-promotion; or dismissal.*

### **Application and Definitions:**

This policy shall apply to all Specialty and Subspecialty Residents in ACGME accredited, ABMS accredited, other Society or Professional Organization Accredited, and GMEC approved training programs who are employed under a contract with Yale-New Haven Hospital or Yale University School of Medicine. This policy does not apply to research post-doctoral fellows.

**Grievable Matters:** A grievance may be brought forward by residents to appeal perceived violations of terms or conditions in the Resident’s written contract, unequal or unfair application of Hospital or University policies, disciplinary actions including suspension, probation, or dismissal, and non-disciplinary actions such as non-renewal of a resident’s appointment, delayed promotion to the next PGY level due to competency or milestone deficiencies, or termination of a Resident’s appointment prior to the end of the contract term due to failure to achieve milestone benchmarks of a performance improvement or individual learning plan.

**The following are not grievable under this procedure:**

Complaints related to sexual harassment or sexual misconduct must be made pursuant to the Hospital's Policy or the University's policy, depending on who employs the individual accused of harassment or misconduct. Residents with a concern of sexual harassment will be encouraged to seek the guidance of the GME Wellbeing Director in advancing their concern and to provide support and referral for resources throughout the process.

Violations of Title VII (acts of discrimination against protected classes under federal law) must be directed to the Hospital or University Compliance Officer, depending on who employs the individual accused of committing discrimination. Residents with a concern of discrimination will be encouraged to seek the guidance of the GME Director of Diversity, Equity, and Inclusion in advancing their concern and to provide support and referral for resources throughout the process.

Complaints of academic fraud/scientific misconduct must be brought under the "Policies and Procedures for Dealing with Allegations of Academic Fraud at Yale University" (see <http://www.yale.edu/grants/acadfraud.html>) and will be referred to the Special Advisor to the Dean of the School of Medicine.

Complaints that do not involve the resident's educational, training, or professional activities or institutional responsibilities.

**Policy and Procedure:**

When an incident forming the basis for a grievance arises, the resident must follow the procedure outlined below. Each grievance shall be handled promptly and impartially, without fear of coercion, discrimination, or reprisal. Each participant in a grievance shall do his or her part to protect this right.

So that residents can be aware of their right to appeal a grievable matter and meet the timelines, they must be provided with a copy of the grievance policy at the time they are notified of a decision regarding disciplinary actions including suspension, probation, or dismissal, and grievable non-disciplinary actions such as non-renewal of a resident's appointment, delayed promotion to the next PGY level due to competency or milestone deficiencies, or termination of a Resident's appointment prior to the end of the contract term due to failure to achieve milestone benchmarks of a performance improvement or individual learning plan.

To be accepted for consideration, a grievance must be initiated by the Resident within fifteen (15) working days of the time they first had knowledge of the incident that gave rise to the grievance. The Senior Associate Dean for GME shall then meet with the Resident to review the grievance policy, procedures, and timeline.

All time limits specified in this policy refer to working days, defined as Monday through Friday, excluding Hospital holidays.

- A. To achieve a prompt resolution of Resident's grievances, the action at each step of the Grievance Procedure should be taken as rapidly as possible, but not later than the prescribed time limits. In the event of extenuating circumstances, a brief extension may be made by mutual agreement of the Senior Associate Dean for GME and the grievant. If timelines are not reached, the grievance will be considered null and void.
- B. Grievance meetings shall be scheduled at times which are mutually satisfactory to all parties concerned. No resident, faculty member, member of the Grievance panel, administrator, or witness shall suffer loss of compensation or leave time for the time spent in any step of this procedure.
- C. Residents presenting a grievance are encouraged to obtain the assistance of another Hospital or University employee of their choice in preparing and presenting their grievance. Other outside individuals, including attorneys, are not permitted to participate directly in the grievance process, though consultation with an attorney is permitted.
- D. The first grievance appeal that a resident brings forward shall be handled as described in the Step 1 process below. If a resident is not satisfied with the outcome of the Step 1 grievance, they may pursue a Step 2 grievance according to the process outlined below. All issues to be raised in a grievance must be raised from the first step and may not be introduced for the first time in Step 2 without having been previously raised in Step 1.
- E. At each step of the grievance, the Resident must prepare a written summary of the complaint, facts, information accumulated, and the remedy or outcome being sought. This must be forwarded to the Manager of GME Programs, whose name and contact information will be provided to the Resident by the Senior Associate Dean and Director of GME.
- F. The Manager of GME Programs will serve to ensure that the procedure for the grievance is adhered to at each step.
- G. At the conclusion of each step of the Grievance Procedure, the Chair of the Grievance Panel for Step 1 and the Chief Medical Officer for Step 2, shall send a copy of the written decision which includes an explanation of the reasoning behind the decision, to the Manager of GME Programs. The Manager of GME Programs will provide a copy of the written decisions to the Resident, the Senior Associate Dean for GME, Hospital Sr. Associate General Counsel, and the Training Program Director. The letter will be addressed to the Senior Associate Dean for GME and Hospital Sr. Associate General Counsel.
- H. All information obtained in connection with a grievance, whether provided in writing or through interviews, shall be treated in a confidential manner by all parties involved. Only the outcome and disposition will be recorded and maintained in the Resident's file. A copy of all documents referenced in the grievance will be maintained in the GME office.

- I. Data regarding numbers of grievances, their general subject matter and their departments, as well as their final outcomes will be reviewed annually by the Executive Subcommittee of the Graduate Medical Education Committee. To maintain resident confidentiality, only the number of grievances and their outcome for the prior academic year will be presented as an agenda item at the May or June meeting of the GMEC each year and included in the Annual Institutional Report.

### **Administrative Procedures:**

The steps for filing a grievance are detailed below. A grievant may discontinue this procedure at any point by informing the Senior Associate Dean of GME that they wish to withdraw the grievance.

#### **A. Step 1 – Grievance Panel**

A 5-member “Grievance Panel” will be formed to hear the Step 1 grievance. The panel will consist of the following:

- 1.) Two Chief Residents or Final-year residents selected by the resident pursuing the grievance. The selected individuals must not be a part of the resident’s specialty, have a social relationship with the resident, have worked directly with the resident, and/or have prior knowledge of the grievance.
- 2.) One Residency or Fellowship Program Director selected by the Senior Associate Dean for GME from a complete list of program directors, not from the trainee’s specialty, and who has not worked with the trainee or have prior knowledge of the grievance.
- 3.) One Medical staff member selected by the Senior Associate Dean for GME who is not from the trainee’s specialty, and who has not worked with the trainee or have prior knowledge of the grievance.
- 4.) One Hospital or University administrator selected by the Senior Associate Dean for GME not from the trainee’s specialty, and who has not worked with the trainee or have prior knowledge of the grievance.
- 5.) The Senior Associate Dean of GME will email each selected panel member to inform them that a grievance has been submitted and that they have been identified as a person to serve on the Step 1 grievance panel. This will be followed by a confidential phone call where the Senior Associate Dean for GME explains the grievance policy, verifies the panel members availability and willingness to serve, and then shares the name of the resident bringing the grievance forward to verify if there is a conflict of interest, if they are aware of the grievance, or have worked directly with the resident.
  - a. If a conflict of interest is identified, the proposed panel member is excused and reminded that all information related to this matter is confidential and must not be shared.
  - b. The Senior Associate Dean for GME will then inform the resident of the conflict of interest and a different panel member will be selected following the guidelines above.

### Diversity

The individuals selected by the Senior Associate Dean for GME should ensure a diverse representation of gender, race, sexual orientation, religion, or other protected class, and experience on the panel, especially as it may relate to the grievance or resident pursuing the grievance.

### Mutual Approval

The Senior Associate Dean for GME and the resident pursuing the grievance must each approve of all 5 individuals on the panel. If there is an identifiable possible conflict of interest, they will each have the opportunity to request appointment of a different member of the panel.

### Ally/ Ombudsperson

The trainee will be encouraged, but is not required, to select an ally/ombudsperson who is present throughout the grievance process. This person can be a faculty member or another trainee. If they do not have an individual to select as an ally, they will have the opportunity to select an ombudsperson from a given list of faculty members who have volunteered to serve in this capacity. The role of the ally/ombudsperson is to support the resident bringing a grievance forward and may be present during interviews of the resident but may not directly participate in the interviews.

### **B. Step 1 Grievance Panel Timeline and Grievance Review Process:**

Within 10 working days of when the grievance panel is formed, the panel will meet with the Senior Associate Dean for GME and the Hospital Sr. Associate General Counsel if the resident is a hospital employee, or University counsel if the resident is a university employee, who will explain the grievance process, review the responsibility of the panel including timeline, and answer questions. Responsibilities of the panel include review of the grievance, development of the facts and information which are relevant to the grievance, conducting interviews with relevant parties and issuing a written consensus decision. The panel will appoint one member to serve as Chair and this person will be responsible for facilitating interviews and communicating with the GME Manager of Programs regarding any clarifications, arranging interviews, and the final consensus recommendation of the panel.

The panel shall meet with the resident within fourteen (14) working days of the initial panel meeting.

The panel's final consensus decision shall be issued within fourteen (14) working days of the meeting with the resident. The Chair of the panel shall submit this written decision to the Manager of GME Programs who will provide a copy to the Resident, to the Senior Associate Dean for GME, the Hospital Sr. Associate General Counsel or University counsel depending on who employs the resident, and to the residents' program director.

### **C. Step 2 - Chief of Staff or Dean's Representative**

If the Resident is not satisfied with resolution of the Grievance at Step 1, the Resident may appeal to Step 2 of the Grievance Procedure. This appeal must be in writing and comply with the requirements of paragraph D under Policy and Procedures above. The Step 2 grievance must

be submitted to the Manager of GME Programs within seven (7) working days after receiving the Step 1 decision. They will deliver the appeal to individuals who will hear the Step 2 grievance. In the event a grievance is not appealed to Step 2 within seven (7) working days, the Step 1 decision shall be considered final.

A second step grievance will be reviewed by one of the following, depending on the salary source of the Resident: 1) Chief Medical Officer of Yale-New Haven Hospital or 2) Representative of the Dean, Yale University School of Medicine.

The Chief Medical Officer or Dean's representative, as applicable, shall meet with the resident within fourteen (14) working days after receiving the Step 2 appeal. The Chief Medical Officer/Representative of the Dean shall conduct a review of the grievance and reach a written decision promptly. The Chief Medical Officer/Representative of the Dean's decision shall be issued within ten (10) working days of their meeting with the Resident. Either decision shall be deemed final and binding on all concerned parties.