

Due Process for Adverse Action

1. This is the process residents and fellows (trainees) currently enrolled in an educational program sponsored by Nationwide Children's Hospital (NCH) under the direction of the NCH Designated Institutional Official (DIO) must use to appeal an adverse action in the course of the trainee's education program.
2. If the Program Director (PD) determines that a trainee's performance warrants an adverse action, the PD will notify the trainee in writing as specified in the Adverse Action Policy. The written notice must include the reasons for the adverse action and the sanctions imposed.
3. The trainee has the right to appeal an adverse action. The trainee must appeal an adverse action in writing to the PD within fourteen (14) calendar days of receipt of written notice of the adverse action by the PD. The trainee must provide a copy of the appeal to the DIO.
 - ◆ If the adverse action is immediate termination, the trainee will be removed from all duties. The trainee must indicate the intent to appeal the termination decision within 48 hours of written notification by the PD. The trainee must submit the written appeal to the PD and DIO within three (3) calendar days of receipt of written notification by the PD. The AC (see below) must meet within 3 business days of receipt of trainee's written appeal. The AC's decision must be submitted within 3 business days the appeal hearing.
4. An Appeal Committee (AC), chaired by the Vice Chair – Graduate Medical Education Committee (GMEC) or designee, shall hear the appeal.
 - ◆ The AC Chair may assign this responsibility to an existing committee or may appoint a special committee to hear the appeal. The existing committee must fulfill the representation requirements noted below.
 - ◆ The AC must meet within ten (10) business days (Monday-Friday excluding holidays) of receipt of the written appeal from the trainee.
 - ◆ The AC shall comprise: (1) the Vice Chair – GMEC or designee, (2) at least three (3) core faculty, at least two of whom must be outside the Department/Section/Division of the appellant trainee, and (3) one trainee who is a member of the FRAC and not enrolled in the same GME program as the appellant trainee.
 - ◆ The PD of the appellant trainee may not be a member of the AC.
 - ◆ The PD and the appellant trainee shall be invited to present information pertaining to the adverse decision in writing and/or verbally at the appeal hearing.
 - ◆ The AC Chair must forward the AC's determination in writing to the trainee, the PD, the DIO, and the Chief Medical Officer within three (3) business days of the hearing.
 - ◆ This review is not controlled by legal rules of evidence or procedure. Neither NCH nor the trainee may be represented by legal counsel at the hearing. The AC Chair shall make a written summary of the appeal hearing.
5. If the trainee disagrees with the outcome of this first hearing, the trainee has seven (7) business days from receipt of the written decision by the AC to file a second appeal in writing to the DIO, with a copy to the Chief Medical Officer (CMO). This appeal must be based on new information that was not provided at the first hearing or on disagreement with the AC's interpretation of the standards, guidelines, and/or policies which govern the training program.
6. An Appeal Review Committee (ARC) shall be appointed and chaired by the CMO or designee.
 - ◆ In addition to the Chair, the ARC shall comprise: the NCH Physician in Chief/Surgeon in Chief/ Senior Vice President-Patient Care Services, whichever is applicable to the trainee's training

program; PDs from at least two programs other than that of the appellant trainee, and one trainee who is a member of the FRAC and not enrolled in the same GME program as the appellant trainee. None of these committee members may have served on the AC. If no such trainee is eligible to serve, the Chair shall appoint a NCH trainee member from those trainees currently active in a training program other than that of the appellant. Any individual who has been involved in a substantive way in the decision process with the specific case may not serve on the ARC.

- ◆ The trainee's PD, DIO, and the Chair of the AC may present information relative to the appealed action.
 - ◆ The trainee may present written or oral information relevant to the action and basis for appeal; may be accompanied by a faculty member of his/her choice as an advocate; and may invite up to two faculty, trainees, or other health care professionals who can provide relevant information about the trainee's performance.
 - ◆ The ARC must meet within ten (10) business days of receipt of the appeal review request from the trainee.
 - ◆ This review is not controlled by legal rules of evidence or procedure.
 - ◆ A written summary of the proceedings will be made by the Chair.
 - ◆ Neither NCH nor the trainee may be represented by legal counsel at the hearing.
7. The decision of the ARC is final. The CMO will forward in writing the decision of the ARC to the appellant trainee, the PD, and the DIO within three (3) business days.
 8. If the trainee does not file a first or second appeal within the timeline specified above or if the trainee resigns from or otherwise leaves the program at any point in the appeal process, the original decision of the PD is final.
 9. Pursuant to Article VII, Section 5 of the NCH Medical Staff bylaws, no appeal through the Medical Staff is possible.

Approved by the GME Committee: 10/26/1994; 6/11/1997; 3/8/2000; 12/16/2004; 12/17/2007; 12/15/2010; 12/6/2013, 12/20/2017