



BAPTIST MEMORIAL MEDICAL EDUCATION

DEPARTMENTAL POLICY AND PROCEDURE MANUAL

Effective Date: July 2015	Due Process
Last Review/Revision: February 2021	

POLICY STATEMENT:

This policy should be used whenever a resident is notified of an action that could result in dismissal from a program, suspension from a program, probation, non-renewal of appointment/contract or non-promotion. Should any of these events occur, the resident has the right to request a hearing before a Due Process Committee as described below:

If the cause of termination, suspension, probation, non-renewal of appointment/contract or non-promotion from Baptist Memorial Medical Education sponsored programs is based upon academic performance, the resident shall be entitled, upon request, to a hearing before an appointed Due Process Committee pursuant to the procedures outlined below.

Any termination or disciplinary determination made based upon non-academic performance shall not be subject to a due process. Due process procedures shall not apply to any disciplinary action, up to and including termination, that results specifically from, but not limited to, the following: lying; falsification of a medical record; violation of medical record privacy; being under the influence of intoxicants or drugs; disorderly conduct, harassment (including verbal, physical, sexual and racial harassment), the use of abusive language on the premises; fighting, encouraging a fight, or threatening, attempting, or causing injury to another person or patient on the premises, patient abuse, or any other non-academic performance matters. Non-academic due process procedures follow current human resource and hospital policies and procedures.

For resolution of other concerns or issues not related to termination, suspension, non-renewal or non-promotion, residents should follow the BMME Grievance Policy.

PURPOSE: To ensure residents and fellows have an appropriate mechanism for due process and to ensure that the process is consistent, orderly, fair, and timely. To allow secondary review of the program's actions based on the assessment of the resident's/fellow's academic and professional performance. The appeal process is not an adversarial legal proceeding but is, instead, the exercise of academic and professional judgment by the GME faculty and officials on whether the resident or fellow has the necessary ability to uphold academic and professional competencies. This policy and process provides fair, equitable and consistent treatment of residents and fellows.

PROCEDURE:

Initial Request for Hearing:

1. Residents/Fellows may request review by Due Process by submitting a written request for review to the Designated Institutional Officer (DIO) within (5) five business days after being notified, by the program director, of one of the following:
 - a. Denial of Certificate of Completion
 - b. Dismissal from the Residency Program for academic deficiency
 - c. Placed on suspension
 - d. Placed on probation
 - e. Contract non-renewal
 - f. Non-promotion
2. The Due Process Committee may not act on the recommendations of the program director until the period in which the trainee is permitted to request a due process hearing has elapsed.
3. In the event the trainee has requested a due process hearing, the DIO shall, within ten (10) business days, arrange for such hearing and shall notify the resident, in writing, of the time and place of such hearing at least five (5) business days before said hearing.
4. The DIO will appoint a Due Process Committee consisting of at least three members of the GMEC and at least one trainee, none of whom may be from the resident's/fellow's training program or department.
5. The DIO will appoint one member as chair of the Due Process Committee. The DIO, at his/her discretion, may appoint other members to the Due Process Committee.
6. The DIO (or his/her designee) shall be the coordinator for the due process procedure and will be part of the Due Process Committee, in an administrative function only, and will not vote.
7. The notice of hearing shall state the recommendation to be acted upon by the Due Process Committee and the basis for such recommendation.

Conduct of Hearing:

1. The trainee, and program, may opt to invite witnesses relevant to stated action. A witness list must be given to the DIO within five (5) business days of said hearing.
2. The Program Director must be present at said hearing.
3. BMME reserves the right to request a hospital attorney be present at such hearing.
4. The Chair of the Due Process Committee shall preside at such hearing, determine the order of procedure, and assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence. The hearing need not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. Minutes, notes or other documentation may be made during the hearing.
5. Upon completion of the hearing, The Due Process Committee shall, within ten (10) business days, consider the matter before them and render its decision. The Due Process Committee shall cause a copy of their official action to be served upon the trainee in writing, by certified mail, return receipt requested. A copy of the decision will be made part of the resident's/fellow's permanent GME file.

Final Appeal:

1. If the trainee does not agree with the Due Process Committee decision, he/she may appeal this decision, by written request, to the Chief Medical Officer of the Baptist Memorial Health System within five (5) business days.
2. The Chief Medical Officer of the Baptist Memorial Health System will review all documentation, within ten (10) business days, and render a final decision. Interviews with the trainee, program director and/or witnesses, may or may not be held. The Chief Medical Officer's decision is binding and is not subject to further appeals.
3. Failure of the trainee to request any of the hearings within the time limits provided shall indicate a waiver of his/her right to such hearing.

Additional Provisions:

1. The trainee has a right to obtain legal counsel at any level of the review process. Attorneys that represent the trainee are not permitted to attend the Due Process hearing.
2. Residents/Fellows who have been dismissed will receive no remuneration during the review process.
3. BMME cannot, and will not, compel participation in the review process by peers, medical staff, patients, or other witnesses, even if such is requested by the trainee or program director seeking review.