Purpose
1 The purpose of this policy is to outline the appeal processes for ITER decisions, progress status in RCPSC CBME Programs, and Remediation, Probation and Dismissal decisions for Residents in Residency Training Programs in the Cumming School of Medicine at the University of Calgary.

Scope
2 This policy applies to all Residents in all Programs in the Cumming School of Medicine at the University of Calgary.

Definitions
3 In this policy,

a) “Ad Hoc Departmental Appeal Committee” means the committee constituted under this policy to hear Resident appeals.

b) “Assessment” means a systematic collection and interpretation of performance feedback data about a Resident to support and document the progressive development of competence. “Evaluation” is used interchangeably with Assessment in some Programs.
c) “Associate Dean” means Associate Dean of Postgraduate Medical Education in the Cumming School of Medicine at the University of Calgary. The Associate Dean is the Faculty member responsible for the overall conduct and supervision of PGME within the faculty.

d) “CFPC” means the College of Family Physicians of Canada, the body responsible for program accreditation, examination and Resident certification for CFPC Programs.

e) “Chair” means the individual who chairs an appeal hearing at any level.

f) “CBME” means Competency Based Medical Education; a medical curriculum paradigm that focuses on outcomes (acquisition of skills, competencies, or Program elements) that may or may not be constrained by defined periods of time, such as Rotations, for their acquisition. In this Policy, CBME Program refers to both an entire Program or a stream within a Program that is based on CBME.

g) “Competence Committee” means a sub-committee of the RPC in RCPSC CBME Programs that is tasked with monitoring Resident performance and making decisions with respect to Resident progress within the Program, specifically, readiness for increasing professional responsibility and Promotion through the Stages of Training as well as recommending and monitoring Focused Learning Plans, Remediation, and Probation.

h) “CPSA” means the College of Physicians and Surgeons of Alberta.

i) “Dismissal” means the dismissal of a Resident from a Program. Refer to Policy on Resident Remediation, Probation, & Dismissal.

j) “Educational Experience” means an experience in a particular environment or set of environments selected/designated to support the Resident’s achievement of competencies. This may or may not occur in a block, or Rotation. Other terms used may include: “block”, “training experience”, or “Program element”.

k) “Faculty” means a physician with an appointment in the Cumming School of Medicine at the University of Calgary.

l) “Focused Learning Plan” means a structured learning plan endorsed by the RPC, or subcommittee thereof, a Preceptor, or the Program Director to describe an area of performance deficiency requiring focused attention to bring the Resident up to the expected level of proficiency but not requiring a formal Remediation. The plan describes how the deficiency will be addressed and does not require an extension of training or result in a delay in Promotion to the next PGY level. “Modified Learning Plan” is an equivalent term.

m) “ITER” means In-Training Evaluation Report.
n) “Not Progressing as Expected” means a status in RCPSC CBME Programs that a Resident is not progressing along the competency continuum as expected and includes a status of “Failing to Progress”.

o) “PGME” means Postgraduate Medical Education.

p) “PGME Appeals Subcommittee” means the standing subcommittee struck by the Associate Dean constituted under this policy to hear Resident appeals related to decisions made by an RPC (or a subcommittee thereof), a Competence Committee, or an Ad Hoc Departmental Appeal Committee.

q) “PGY level” means postgraduate year and is used interchangeably with residency year.

r) “Preceptor” means a physician directly responsible for a period or segment of the Resident’s professional medical training, teaching and instruction and who contributes to the evaluation process. “Supervisor” may be used interchangeably with “Preceptor”.

s) “Probation” means a formal program of individualized educational support, assessment, and monitoring that requires a Resident to demonstrate sufficient improvement in described areas in order to continue in the Program. Refer to Policy on Resident Remediation, Probation, & Dismissal.

t) “Procedural Claim” means a challenge to fair or due process.

u) “Program” means a RCPSC or CFPC PGME Residency Training Program in the Cumming School of Medicine at the University of Calgary.

v) “Program Director” means the person responsible for the overall conduct of a PGME Program in a discipline, and is responsible to the Associate Dean.

w) “Promotion” means the advancement of a Resident from one PGY level to the next. In RCPSC CBME Programs it also refers to a Resident’s progression through the Stages of Training.

x) “RCPSC” means the Royal College of Physicians and Surgeons of Canada, the body responsible for accreditation, examination and Resident certification for RCPSC programs.

y) “Resident” means a physician registered in a PGME training Program that is administered by the Cumming School of Medicine at the University of Calgary and leads to RCPSC or CFPC certification.

z) “Remediation” means a formal program of individualized educational support, assessment and monitoring for a Resident to assist in correcting identified performance deficiencies. Refer to Policy on Resident Remediation, Probation, & Dismissal.
aa) “Rotation” is defined by each Program as a required element of training and may consist of one or more four (4) week blocks.

bb) “RPC” means Residency Program Committee and is the committee that assists the Program Director in the planning, organization, and supervision of the Program. “REC” (Residency Education Committee) or “RTC” (Residency Training Committee) are equivalent terms in use by some Programs. This also means the Family Medicine Postgraduate Education Committee and includes the Resident Performance Subcommittee in CFPC Programs.

c) “Senior Associate Dean” means the Senior Associate Dean of Education at the Cumming School of Medicine at the University of Calgary.

dd) “Stages of Training” in RCPSC CBME means four developmental stages: transition to discipline, foundations of discipline, core of discipline, and transition to practice. Each stage has its own set of markers for learning and assessment.

e) “Substantive Claim” means a challenge to the accuracy or validity of an Assessment or decision by an RPC or Competence Committee.

4 Jurisdiction and Decisions that Residents may Appeal

4.1 The Resident’s home Program determines at its sole discretion what criteria will be used to determine unsatisfactory or marginal performance for the purpose of an Assessment and when Remediation, Probation, or Dismissal is appropriate. Refer to Policies on Resident Assessment and Resident Remediation, Probation, & Dismissal.

4.2 A Resident may appeal one or more of the following:

4.2.1 An end of Rotation ITER decision which is overall “unsatisfactory” or “failed”,
4.2.2 A decision that Remediation is required,
4.2.3 A decision that Probation is required,
4.2.4 A decision that a Resident has failed Remediation,
4.2.5 A decision that a Resident has failed Probation, and/or
4.2.6 A decision that a Resident has been Dismissed from a Program.

Refer to Policies on Resident Assessment and Resident Remediation, Probation, & Dismissal.

4.3 A Resident may NOT appeal an RPC, or subcommittee thereof, decision that their status is “Not Progressing as Expected” if they are to continue with their assigned Educational Experiences with or without a Focused Learning Plan (i.e. when there is no extension of training).
4.4 Pending the disposition of an appeal, the RPC, or subcommittee thereof, shall determine if a Resident may continue with regularly scheduled Educational Experiences or whether alternative arrangements such as a leave of absence are necessary. Any leave of absence will be established under current PGME policies and as such may be unpaid, at the discretion of Alberta Health Services. Credit granted for continuing training pending the disposition of the appeal will be at the discretion of the RPC and based on successful completion of Educational Experiences and Program requirements.

5 Appeal Process: Notification of Appeal

5.1 The Resident must submit a written request for appeal to their Program Director within 14 days of the date of the first written notification of results of any of the items in section 4.2. It is the responsibility of the Resident to review Assessments and ITERs in a timely manner. The written request for appeal may be submitted by email or hard copy. In the event that the request for appeal is sent using more than one format, the earliest version received by the Program Director will determine the timelines. The written request for appeal must include the following:

a) The subject or decision under appeal,
b) An explanation of why the Resident disagrees with the rating, Assessment, or, decision,
c) Whether the basis of the appeal is with respect to a Substantive Claim, a Procedural Claim, or both.
d) Any evidence or documents that the Resident believes are relevant to the appeal.

5.2 For an appeal of a Rotation ITER decision, the Program Director should forward the letter of appeal to the Preceptor who completed the ITER.

5.3 For an appeal of a decision made by an RPC in a RCPSC CBME Program, the Program Director should forward the letter of appeal to the chair of the Competence Committee.

5.4 For an appeal of a decision made by the Residency Progress Subcommittee in a CFPC Program, the Program Director should forward the letter of appeal to the chair of that committee.

6 Pre-Appeal Resolution and Timelines

6.1 After a Resident files an appeal, the Program Director (or delegate), Preceptor, Resident, and academic advisor (or equivalent) are encouraged to meet to attempt to resolve the issues, if appropriate. Where an ITER has multiple contributors, a representative of its authors may participate. If the appeal is of a decision in a RCPSC CBME Program, the Chair (or delegate) of the Competence Committee should participate with the Resident, an academic advisor (or equivalent), and the Program Director in this process.
6.1.1 This meeting should be held no later than fourteen (14) days after the filing of an appeal. The outcome of the meeting should be clearly documented and placed in the Resident’s file.

6.1.2 If a mutually satisfactory resolution to the Resident’s appeal is not possible then the appeal must be heard formally **within thirty (30) days of the pre-appeal resolution meeting**, unless both parties agree in writing to an extension of time.

6.2 If no initial meeting is requested or held, the appeal should proceed as described in section 7 and **must be heard within forty (40) days of receipt of the notice of appeal by the Program Director**.

7 First level of Appeal: RPC or Ad Hoc Departmental Appeal Committee

7.1 Appeals must be heard by the RPC, (or a subcommittee thereof) or, when specified by this policy, an Ad Hoc Departmental Appeal Committee.

7.1.1 The RPC (or a subcommittee thereof) hears appeals unless the RPC made the decision under appeal. In this circumstance, an Ad Hoc Departmental Committee **must** be struck.

7.1.2 If the matter under appeal occurred outside the Resident’s home Program, the appeal will be conducted by the Resident’s home Program RPC.

Process for RPC and Ad Hoc Departmental Appeal Committees

7.2 Each RPC may develop written guidelines, based on the guidelines for appeals, describing the procedure for handling appeals that are heard by the RPC. This must be available to Residents. In the event that a procedure is not in place, the RPC will use these guidelines for ad hoc appeals, except that the membership and Chair is that of the RPC or delegated subcommittee.

7.3 Each Department may develop written guidelines, based on the guidelines for appeals, describing the procedure for handling Ad Hoc Departmental Appeals. This must be available to Residents. In the event that a procedure is not in place, the Ad Hoc Departmental Appeal Committee is chaired by the Academic Department Head (or designate). There must be at least 5 members including the Chair:

7.3.1 Representation should be similar to that of the RPC and include Faculty with experience in PGME.

7.3.2 Individuals with a declared or perceived conflict of interest regarding the Resident must not participate in the hearing.
This must be disclosed to the Chair who will render a decision.

7.3.3 There should be at least one (1) Resident on the committee.

7.3.4 If the appeal relates to a RCPSC CBME Program, there should be a Faculty member of a Competence Committee on the appeal committee.

7.3.5 If the Program Director was involved in the decision being appealed, the Program Director should make a statement that includes the background information and rationale for the decision at the appeal hearing, but must not participate on the committee or help render a decision regarding the appeal.

7.4 A Resident may object to any individual scheduled to hear the appeal; the Chair shall judge the merits of the challenge.

7.4.1 In the event that the Resident objects to the Chair; the Associate Dean shall judge the merits of the challenge and if necessary identify an alternate Chair.

7.5 The Chair will ensure administrative support is available to take minutes of the hearing.

7.6 The Resident has the right to be heard and to be accompanied by a support person.

7.6.1 The Chair will have the right to determine the level of participation of the support person. This will be communicated prior to the hearing.

7.7 The Resident must be given at least seven (7) days notice of the time and place of the hearing, as well as the composition of the appeal committee.

7.8 The accompanying support person may present the Resident’s case if requested to do so by the Resident and granted authorization by the Chair in consultation with the appeal committee.

7.9 If new documents are introduced at the time of the hearing, the Resident, the Program, and the appeal committee have the right to request a postponement in order to consider their response. The committee shall grant whatever postponement of the hearing that it determines to be appropriate to allow all parties to fully understand the evidence that will be used at the appeal hearing.

7.10 New information may NOT be introduced after all parties have presented evidence and have left the hearing room before deliberation.
7.11 Following all presentations, all parties except appeal committee members and administrative support resources for the appeals committee will be asked to leave the hearing and advised that the decision will communicated as soon as possible once it is available. The committee shall consider all relevant evidence that was presented by the parties. Deliberations will be held in strict confidence and voting will be conducted by closed ballot.

7.11.1 The Chair will count ballots in conjunction with one other committee member.

7.11.2 Decisions will be made by majority vote.

7.11.3 Vote counts will not be announced or recorded in the minutes of the hearing, nor in the written decision of the committee.

7.11.4 Pending the release of full reasons, the Chair will announce only that the appeal has been upheld or denied.

7.12 Minutes for the deliberation of the committee shall only include motions made, the final decision, and a brief rationale.

7.13 The Chair is responsible for writing a decision letter including a summary of reasons for the RPC or Ad Hoc Appeal Committees’ decision.

7.13.1 The decision letter will be sent within thirty (30) days to the Resident, Program Director, and Associate Dean.

7.14 Appeal decisions with respect to items 4.2.1, 4.2.2, 4.2.3, and 4.2.4, above made by the RPC or an Ad Hoc Departmental Appeal Committee are final and cannot be appealed further.

7.15 A Resident appeal of decisions with respect to items 4.2.5, and 4.2.6 made by the RPC, or subcommittee thereof, and/or an Ad Hoc Departmental Appeal Committee may be further appealed to the PGME Appeals Subcommittee, but only on a Procedural Claim or the apprehension of bias.

8 PGME level appeals (PGME Appeals Subcommittee)

8.1 The appeal to the PGME Appeals Subcommittee must be submitted by the Resident, in writing, to the Associate Dean within 14 days of receiving the written decision regarding the previous appeal. The appeal to the PGME Appeals Subcommittee must include:

a) A copy of the decision under appeal,

b) A description of how the Procedural Claim and/or apprehension of bias apply to the decision under appeal, and

c) The specific remedy that the Resident is seeking from the PGME Appeals Subcommittee.
8.2 Substantive information will only be considered to the extent necessary to understand the basis of the decision under appeal. Appeals to the PGME Appeals Subcommittee will not revisit substantive findings of the decision under appeal unless it can be demonstrated by the Resident that the substantive findings are unreasonable due to procedural unfairness and/or apprehension of bias.

8.3 The Chair will respond to a request for an appeal within 14 days of its receipt indicating whether leave to hear the appeal has been granted or not, and where leave has not been granted, the reason(s) for this decision. The PGME Appeals Subcommittee will not hear any appeal until all other appeal processes mandated by this policy have been exhausted.

PGME Appeals Subcommittee Procedure

8.4 The PGME Appeals Subcommittee shall be a six (6) member standing committee with the following members which, other than the Associate Dean, will have a five (5) year term:

The Associate Dean (non-voting),

Two (2) current Program Directors,

Two Faculty, (clinical and/or GFT) external to PGME Committee with some knowledge of residency training, who have not served as a Program Director or Associate Dean within the past three (3) years, and who have a demonstrated interest or experience with education policy, tribunal committee work and/or physician wellness, and

One Resident.

Two alternate members will also be selected.

8.4.1 A member may be removed if, in his/her opinion or that of the Associate Dean, there is actual or perceived conflict of interest. This must be disclosed to the Chair who will render a decision.

8.5 The Associate Dean will chair the appeal unless there is a declared or perceived conflict of interest. This must be disclosed to the Senior Associate Dean who will render a decision. If necessary, the Senior Associate Dean will identify an alternate Chair.

8.6 The Chair will ensure administrative support is provided to take minutes of the hearing.

8.7 The Chair will provide a written list of members of the PGME Appeals Subcommittee to all parties no later than ten (10) days prior to the date of the appeal
8.8 The Resident and the Program Director have the right to challenge any member of the PGME Appeals Subcommittee from hearing the appeal.

8.8.1 The Chair shall judge the merits of the challenge

8.8.2 The Resident and/or Program Director must inform the Chair of any such challenge in writing at least seven (7) days prior to the appeal hearing.

8.8.3 A successful challenge may result in rescheduling of the hearing.

8.9 The PGME Appeals Subcommittee will endeavor to hear an appeal without undue delay once the office of PGME has received all required documents from the Resident and Program.

8.10 The Chair will provide at least fourteen (14) days written notice of the time and place of the appeal hearing to all parties.

8.11 **Residents who have been dismissed will not be allowed to continue clinical or educational activities and will not receive a salary during an appeal.**

**Documentation for the PGME Appeals Subcommittee**

8.12 The Resident and Program Director must submit copies of relevant documentation to the Chair no later than ten (10) days prior to the hearing date. Notice should be given if it is anticipated that additional documents may be available closer to or during the hearing with the understanding that this may result in a postponed hearing, at the discretion of the Chair.

8.13 Documentation provided by the Program Director should include:

a) A description of the Program’s assessment and decision-making procedure relating to the subject of the appeal;

b) The steps taken to inform the Resident that his/her performance was unsatisfactory, including counseling the Resident regarding his/her deficiencies, providing an opportunity for remedial activity, and conveying the results of the remedial activity to the Resident;

c) Evaluations and other materials determined to be relevant by the Program Director, RPC, or Competence Committee regarding the Resident;

d) Information regarding the process used in making the decision under appeal;

e) Minutes of the previous appeal hearing;

f) Other information that the Chair requests.
8.14 Either party may request any individual to provide written statements to the PGME Appeals Subcommittee for consideration at the hearing.

8.15 The Chair may also request the inclusion of documentation he/she deems relevant and provide this information to all parties ahead of the hearing.

8.16 All documentation shall form part of the appeal file.

8.17 The office of PGME will deliver the appeal file to all parties no later than seven (7) days prior to the hearing date.

9 PGME Subcommittee Appeal Hearing

9.1 The Resident and Program Director may, with approval from the Chair, present copies of relevant documents not previously distributed.

9.1.1 Either party may request a postponement in order to consider the documents not previously distributed.

9.2 The appeal hearing will proceed in the following order: The Resident (or representative) will present his/her position first, followed by a question period; then the Program Director (or delegate) will present followed by another question period. Each party and the committee will have the opportunity to ask questions for clarification. Questions directed between the Resident and the Program Director will be addressed via the Chair who will determine if the question is relevant to the topic at hand.

9.3 The Resident may elect to be accompanied by a support person and/or legal counsel.

9.3.1 Notification of the Resident’s intent to be accompanied should be submitted in writing to the Chair at least seven (7) days prior to the hearing date.

9.3.2 If the Resident elects to be accompanied by a support person, the support person may present the Resident’s case if requested to do so by the Resident. Additionally, the support person should be given an opportunity to speak on the Resident’s behalf regarding relevant details.

9.3.3 If the Resident elects to be accompanied by legal counsel, the Chair of the PGME Appeal Subcommittee will have the right to determine the level of participation of legal counsel. This will be communicated prior to the date of the hearing.

9.4 The Program Director and the PGME Appeals Subcommittee may choose to be accompanied by legal counsel.
9.4.1 Legal counsel in this situation is advisory to, and does not represent the appeals committee.

9.4.2 The Resident will be notified of the name/s of such individuals at least seven (7) days prior to the hearing date.

9.5 Other persons with knowledge of the circumstance, or experts in particular areas, may be invited by the Chair to appear at the meeting.

9.5.1 The Resident will be notified of the name/s of such individuals at least seven (7) days prior to the hearing date.

9.6 Persons other than legal counsel who are granted the right to appear before the PGME Appeals Subcommittee will be allowed to make oral presentations, and may be subject to questioning but will not be permitted to question persons present at the hearing.

9.7 Appeal presentations shall be limited to 20 minutes duration for each party.

9.8 After the Resident and Program Director have finished presenting and the PGME Appeals Subcommittee have completed the questions, all participants other than the PGME Appeal Subcommittee members and the Chair will be required to withdraw for the final deliberations and decision by the PGME Appeals Subcommittee.

9.9 The decision of the PGME Appeals Subcommittee will be based on all written and oral submissions presented at the hearing.

9.9.1 The PGME Appeals Subcommittee will NOT assess the accuracy of Assessments; but rather whether the decision was made by means of a fair process and without bias.

9.10 Proceedings will be held in strict confidence, and voting will conducted by closed ballot.

9.10.1 The Chair will count ballots in conjunction with one other PGME Appeals Subcommittee member.

9.10.2 Majority rules will apply.

9.10.3 Vote counts will not be announced or recorded in the Minutes of the hearing, nor in its written decision.

9.10.4 The Chair will announce only that the appeal is upheld or denied.

9.11 The Chair is responsible for writing a decision letter including a summary of reasons for the PGME Appeals Subcommittee’s decision.
9.11.1 The decision letter will be sent within thirty (30) days to the Resident, Program Director, and Associate Dean.

10 Upholding an Appeal

10.1 For an appeal to be successful, the PGME Appeals Subcommittee members must vote in support of the appeal.

10.2 In its decision to support an appeal, the PGME Appeals Subcommittee may make recommendations regarding evaluation or remedial activities.

10.3 If an appeal of a decision for dismissal is successful, the Resident will resume his/her residency training and will be subject to all PGME policies.

10.3.1 Depending on the circumstances and findings of the appeal, the Resident will be either reinstated to satisfactory status in the Program (with or without remedial activities), begin Remediation, or restart Probation. This decision may be made by the PGME Appeals Subcommittee or deferred for consideration to the RPC, or a subcommittee thereof, and/or Competence Committee.

10.3.2 If the Resident is reinstated to satisfactory status and if the Resident subsequently receives two (2) failed ITERs after reinstatement, or is assigned the status of Not Progressing as Expected in a RCPSC CBME Program, the RPC and/or Competence Committee should consider Probation for the Resident.

10.3.3 If, as a result of the PGME Appeals Subcommittee upholding an appeal of a dismissal, a Resident is reinstated within four (4) months of completion of training, the PGME Appeals Subcommittee may require an extension to training in order that the Resident may be fully assessed after reinstatement.

11 Further Appeal

11.1 Appeal decisions made by the PGME Appeals Subcommittee may be further appealed to the General Faculties Council Student Academic Appeals Committee. Appeals must be submitted within fifteen (15) days. Information for this process is found at https://www.ucalgary.ca/secretariat/student-appeals

Responsibilities

12 Approval Authority: PGME Committee

12.1 The PGME committee ensures appropriate rigor and due diligence in the development and/or revision of this policy.

12.2 The Associate Dean has the following responsibilities:
12.2.1 To ensure that University of Calgary staff is aware of and understands the implications of this policy and related procedures.

12.2.2 To monitor compliance with this policy and related procedures

12.2.3 To regularly review this policy and related procedures to ensure consistency in practice.

12.2.4 To sponsor the revision of this policy and related procedures when necessary.

**Related Information**

All Residents must be given a copy of, or access to, this document as well as any PGME and Program-specific documents relating to Assessment when they enter a Program at the Cumming School of Medicine at the University of Calgary.

It is the responsibility of the Resident to familiarize themselves with all PGME and Program-specific policies related to PGME training.

The Student Ombuds Office, which is part of the Students Union at the University of Calgary, employs a Student Rights Advisor who can provide confidential advice, assistance preparing appeal documents, liaison with faculty and referral to other resources. The Students Union is located in the MacEwan Student Centre on main campus.

P: 403.220.6420
E: ombuds@ucalgary.ca
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**History**

Approved by PGME Committee: June 16, 2006
Revised by PGME Committed: September 18, 2009
Revision to Faculty of Medicine Appeal structure approved by Faculty Council: September 23, 2009
Revised: December 20, 2013
Approved: December 20, 2013
Editorial revision: February 9, 2017
Approved: February 9, 2017
Revised: June 21, 2018
Approved: June 27, 2018