



Departmental Policy

Departmental Procedure
Instructions/Forms

POSTGRADUATE MEDICAL EDUCATION Resident Appeals

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Classification Residency Training	
Approval Authority PGME Committee	
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| 1 Purpose | 1.1 The purpose of this Policy is to outline the process for appeals for Residents in the Residency Training Program. |
| 2 Scope | 2.1 This policy applies to all Residents in all Residency Training Programs. |
| 3 Definitions | 3.1 In this policy, |

- a) “Accommodation Assessment Committee” means the body established in accordance with the *PGME Medical Learner Accommodation Process*.
- b) “Accommodation Plan” means the plan for a Reasonable Accommodation developed by the Accommodation Assessment Committee in response to a request for Accommodation pursuant to the *PGME Medical Learner’s Accommodation Process*.
- c) “Advisor” means an individual who will assist the Resident or the Respondent during an appeal. Individuals who may be an Advisor include: legal counsel; the Student Ombuds; a peer or a family member.
- d) “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.
- e) “Associate Dean” means the 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.
- f) “Business Days” means days that the University is open for business, excluding weekends and holiday closures.
- g) “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.
- h) “CFPC” means the College of Family Physicians of Canada, the body responsible for program accreditation, examination and Resident certification for CFPC Programs.
- i) “CPSA” means the College of Physicians and Surgeons of Alberta.
- j) “Dismissal” means the dismissal of a Resident from a Program. Refer to PGME’s *Policy on Resident Remediation, Probation, & Dismissal*.

- k) “Educational Experiences” means an experience in a particular environment or set of environments designed to support a Resident’s achievement of competencies or objectives. This may or may not occur in a block, or Rotation.
- l) Entrustable Professional Activity or “EPA” means a task that a Preceptor can delegate to a resident to assess and observe their performance in the workplace.
- m) “Faculty” means a physician with an appointment in the Cumming School of Medicine at the University of Calgary.
- n) “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” and “Learning Support Plan” are equivalent terms.
- o) “Formative” means assessments that provide additional opportunities for learning and development. Formative assessments may inform decisions on a Resident’s progress in the Residency Program.
- p) “ITER” means In-Training Evaluation Report.
- q) “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”.
- r) “PGME” means Postgraduate Medical Education.
- s) “PGME Appeals Committee” means the committee constituted under this Policy to hear Resident appeals.
- t) “PGME Accommodation Process” means the process a Resident follows when requesting an accommodation pursuant to the *PGME Medical Learner Accommodation Process*.

- u) “PGY level” means postgraduate year and is used interchangeably with residency year.
- v) “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 assessment process. “Supervisor” may be used interchangeably with “Preceptor”.
- w) “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*.
- x) “Program” means a RCPSC or CFPC PGME Residency Training Program in the Cumming School of Medicine at the University of Calgary.
- y) “Program Director” means the person responsible for the overall conduct of a PGME Program in a discipline.
- z) “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.
- aa) “RCPSC” means the Royal College of Physicians and Surgeons of Canada, the body responsible for accreditation, examination and Resident certification for RCPSC programs.
- bb) “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*.
- cc) “Residency Training Program” means a RCPSC or CFPC accredited postgraduate medical education training program in the Cumming School of Medicine at the University of Calgary.
- dd) “Resident” means a physician registered in a Residency Training Program that is administered by the Cumming School of Medicine at the University of Calgary and leads to RCPSC or CFPC certification.

- ee) “Resident’s Home Program” means the Program the Resident is registered in.
- ff) “Respondent” means a person or persons who responds to an appeal. This is often, but not universally, the Program Director for the relevant Program.
- gg) “Rotation” is defined by each Program as a required element of training and may consist of one or more four (4) week blocks.
- hh) “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.
- ii) “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.

4 Jurisdiction

- 4.1** The Resident’s Home Program determines, at its sole discretion, what criteria will be used to determine satisfactory, unsatisfactory or marginal performance.
- 4.2** A Resident may appeal one or more of the following:
 - a) An end of Rotation decision or ITER which is overall “unsatisfactory” or “fail” unless Section 5.6 c) applies;
 - b) A decision that Probation is required;
 - c) A decision that a Resident has failed Remediation;
 - d) A decision that a Resident has failed Probation; or
 - e) A decision that a Resident is being dismissed.
- 4.3** A Resident may not appeal the following:
 - a) A decision that Remediation is required;
 - b) Any outcome of a Focused Learning Plan;
 - c) Assessments or decisions that are Formative in nature (i.e. single Entrustable Professional Activity (EPA));
 - d) A decision that their status is “Not Progressing as Expected”;

- e) Accommodation decisions made by the Accommodation Assessment Committee, the Associate Dean or the Senior Associate Dean, Education (or their delegate) pursuant to the PGME Postgraduate Medical Learner Accommodation Process; or
- f) An end of Rotation ITER decision which is “marginal” or “satisfactory” but with specific performance deficiencies.

- 4.4** Pending the disposition of an appeal, the RPC, or relevant delegated Program Committee, will determine if a Resident may continue with regularly scheduled rotations or whether alternative arrangements such as a leave of absence are necessary. Any leave of absence may be unpaid. Credit granted for continuing training pending the disposition of the appeal will be at the discretion of the RPC and based on rotation requirements. Decisions of the RPC, or relevant delegated Program Committee, pursuant to this section, cannot be appealed.
- 4.5** The University of Calgary and the Cumming School of Medicine does not have the ability to produce patient health records or health information that may be relevant to a Resident’s appeal. If the Resident wishes to rely on these documents in their appeal, the Resident must request these documents from the relevant Custodian as defined by Alberta’s *Health Information Act*.

5 PGME Appeals

- 5.1** An appeal to the PGME Appeals Committee must be submitted by email to pgmeappeals@ucalgary.ca no later than 11:59 PM (MT) on the 10th Business Day following receipt of the decision to be appealed.
- 5.2** A Resident may make a request to extend the deadline in Section 5.1 if a request for extension is made to pgmeappeals@ucalgary.ca prior to the expiration of the deadline. Extension requests must include a copy of the decision being appealed, the reason the extension is required and the length of extension being requested.
- 5.3** Extension requests made by a Resident pursuant to Section 5.2 are decided by the Associate Dean or delegate.
- 5.4** An appeal to the PGME Appeals Committee must include the following:
- a) the Resident’s UCID number;
 - b) a copy of the decision being appealed;
 - c) a list and full explanation of the ground(s) of appeal;
 - d) all relevant evidence or documentation in support of the appeal;
 - e) a list of evidence or documentation that has been requested from third parties;
 - f) the outcome the Resident is requesting; and
 - g) a statement that all evidence and documentation provided by the Resident is true and accurate.
- 5.5** A Resident may appeal a decision on only the following grounds:
- a) relevant new information has arisen that could not have been presented earlier and that may have otherwise affected the decision being appealed;

- b) there was a reasonable apprehension of bias on the part of a person(s) who made the decision being appealed;
- c) the decision is unreasonable; or
- d) any other ground.

5.6 The following are not reasons a Resident can appeal and will result in the Resident's request being rejected:

- a) ignorance of the University of Calgary, CSM or Program policies, regulations, procedures, course outlines or expectations;
- b) mere dissatisfaction or disagreement with the decision, the assessment criteria, or performance expectations;
- c) *Appeals are not permitted regarding each Rotation/Educational Experience Assessment during Remediation or Probation; only the decision at the conclusion of Remediation or Probation may be appealed.*
- d) achievement in other courses, assessments, programs, or Rotations;
- e) the CSM did not approve a requested accommodation pursuant to the *Post Graduate Medical Learning Accommodation Process*; or
- f) extenuating circumstances that could have been previously disclosed to the CSM.

5.7 The Chair will respond to a request for an appeal within fourteen (14) Business 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. A Chair can deny leave to appeal for the following reasons:

- a) the Resident did not submit their request by the deadline;
- b) the Resident did not receive an appealable decision;
- c) the Resident failed to identify any grounds of appeal, the grounds of appeal are completely without merit or otherwise do not justify an appeal hearing;
- d) the Resident is appealing for one or more of the reasons listed in section 5.6; or
- e) the decision being appealed does not fall within the jurisdiction of the PGME Residents Appeal Committee.

5.8 If the Resident's request for a PGME appeal is denied pursuant to section 5.5, there is no further right of appeal at the University of Calgary.

5.9 If leave to hear an appeal is granted, the Chair will issue correspondence that includes: 1) the hearing date, time and location, 2) the names of the PGME Appeals Committee members who will hear and decide the appeal, 3) the deadline for the response to the appeal from the Respondent, and 4) the contact information of parties to the appeal.

- a) The Chair will provide at least fourteen (14) Business Days' notice of the time and place of the appeal hearing to all parties.
- b) The parties must copy each other on all correspondence directed to the PGME Appeals Committee, including copies of any documentation or evidence submitted in the appeal.

- c) The parties must provide five (5) copies of all documentation they submit to the PMGE Appeals Committee unless it is submitted electronically.
- 5.10** In order to ensure timely resolution of appeals, the parties are expected to make the necessary scheduling arrangements to participate in the hearing. The Chair will grant amendments to the hearing dates only if a written request is made and only if there are exceptional circumstances that necessitate an amendment.
- 5.11** If necessary, the PGME Appeals Committee members, the Resident or the Respondent may be offered the opportunity to attend a hearing over teleconference, videoconference, or some other electronic means. The Chair has the authority to decide that an oral hearing will take place over teleconference, videoconference, or some other electronic means.
- 5.12** Both the Resident and the Respondent have the right to have a person of their choice appear with them at the hearing as an Advisor. Unless otherwise decided by the Chair, persons attending as an Advisor are not allowed to present evidence, to ask questions or to address the parties or the PGME Appeals Committee during the hearing.
- a) The parties must notify the Chair of their intent to be accompanied by an Advisor at least seven (7) Business Days prior to the hearing date. This notification should include the Advisor's name and if the Advisor is legal counsel.
 - b) Any applications to the Chair to have an Advisor present evidence, ask questions, address the parties or otherwise take on a greater role than contemplated in section 5.10, must also be made at least seven (7) Business Days prior to the hearing date.
- 5.13** Both the Resident and the Respondent have the right to challenge the membership of the PGME Appeals Committee who is hearing and deciding the appeal. Challenges may only be made where it is claimed that a PGME Appeals Committee member has a conflict of interest that may prevent a fair decision being made. A challenge must be made in writing to the Chair, at least seven (7) Business Days before the hearing date, and must include evidence supporting the challenge. The Chair will determine whether there is a conflict of interest that may prevent a fair decision being made, unless the Chair is the subject of the challenge, in which case the Associate Dean will decide. If the challenge is successful, the Chair will provide the names of the new panel to the Resident and the Respondent and adjust the hearing timeline as needed.
- A member may be removed if, in their own opinion or that of the Chair, there is a potential or actual conflict of interest.
- 5.14** A Resident's failure to accept or participate in a Focused Learning Plan or an Accommodation Plan or similar offers of support may be relevant evidence to be considered by the PGME Appeals Committee in an appeal.

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

6 PGME Appeals Committee

- 6.1** The PGME Appeals Committee will be appointed by the Associate Dean and will consist of:
- a) At least two (2) Faculty with some knowledge of residency training who have a demonstrated interest in or experience with education policy, tribunal committee work and/or physician wellness, to act as Chairs;
 - b) At least four (4) Faculty with some knowledge of residency training who have a demonstrated interest in or experience with education policy, tribunal committee work and/or physician wellness; and
 - c) At least four (4) Residents.
- 6.2** Quorum of the PGME Appeals Committee for hearing and deciding an appeal will be three (3) members appointed pursuant to this procedure, which three (3) members must include:
- a) One (1) who will act as Chair as per section 6.1 a);
 - b) One (1) as per section 6.1 b) or the Associate Dean can appoint a member with the necessary subject matter knowledge on an ad hoc basis;
 - c) One (1) Resident as per section 6.1 c).
- 6.3** Decisions of the PGME Appeals Committee are made by majority. Written decisions will reflect the majority only.
- 6.4** The Chair will decide all pre-hearing issues, including whether to grant leave to appeal, and all procedural issues that arise during the hearing.
- 6.5** All decisions of the Chair, including leave to appeal decisions, are final and not appealable at the University.
- 6.6** With the exception of the Residents, all members of the PGME Appeals Committee will have a term of five (5) years, renewable for one (1) more term. Residents will typically have a single term of two (2) years, but this can be reduced for Residents with shorter times in residency.

7 PGME Appeals Documentation and Witnesses

- 7.1** The Resident and Respondent must submit copies of all relevant documentation to the Chair no later than seven (7) Business Days prior to the hearing date. Notice should be given if it is anticipated that additional documents may be provided closer to or during the hearing with the understanding that this may result in the Chair denying this further documentation or postponing the hearing.
- 7.2** Documentation provided by the Respondent in the appeal should include:
- a) a description of the Program's assessment procedure;

- b) the steps taken to inform the Resident that their performance was unsatisfactory, including counseling the Resident regarding their deficiencies, providing an opportunity for remedial activity, and conveying the results of the remedial activity to the Resident;
- c) assessments and other materials determined to be relevant by the Respondent and/or RPC regarding the Resident;
- d) information regarding the process used in making the decision under appeal; and
- e) other information that the Respondent feels is relevant to the appeal or the Chair requests.

7.3 The Resident and the Respondent must provide a list of all witnesses they intend to call at the hearing, as well as a summary of their anticipated evidence, no later than seven (7) Business Days prior to the hearing.

7.4 The Chair may request that the parties provide a summary of anticipated evidence of the witnesses.

7.5 The Chair may also request the inclusion of relevant documentation.

8 PGME Appeals Committee Hearing

8.1 If either party attends the hearing with documentation not previously submitted, they must make a request from the Chair that they be included in the hearing.

- a) There must be enough copies for the PGME Committee and opposing party.
- b) The opposing party may request an adjournment in order to review and address the new documentation.

8.2 The Chair has the discretion to run the hearing in the manner they feel is appropriate and may set time limits for presentations.

8.3 Witnesses are not permitted in the hearing room except during the time they are giving evidence and answering questions with the exception of the Respondent and Resident.

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

8.5 If the Resident or the Respondent do not attend the oral hearing, the PGME Appeals Committee may proceed with the hearing in the absence of the Resident or Respondent and may accept the written documentation submitted by the non-attending party in lieu of oral submissions made in person.

8.6 Following the hearing, the PGME Appeal Committee will meet *in camera* to consider the evidence and make a decision. Legal Counsel to the PGME Appeals Committee, if any, and any support personnel for the PGME Appeals Committee may attend deliberations.

8.7 The PGME Appeals Committee written decision will normally include a brief description of the history of the appeal, a summary of the evidence, the reasons for

the decision and the resulting outcome. The decision letter will also inform the Resident that they may have a further right of appeal. The PGME Appeals Committee decision will not record any dissenting opinions.

- 8.8** The Chair will normally send the written decision within thirty (30) Business Days of the PGME Appeals Committee reaching a decision to the Resident, Respondent and Associate Dean.
- 8.9** The PGME Appeals Committee has the authority to:
- a) confirm a decision being appealed;
 - b) void some or all of the decision and send the decision back to the RPC to reconsider;
 - c) void the decision being appealed and substitute its own decision; or
 - d) assess a different outcome, in accordance with the University's, CSM's, or the Program's policies, procedures, regulations or standards.
- 8.10** If an appeal of a decision for dismissal is reversed, the Resident may resume their residency training, subject to the following:
- a) a Resident is not permitted to return to the Residency Program until the College of Physicians and Surgeons of Alberta reinstates their educational license to practice;
 - b) the Program has the sole discretion to determine the Resident's status and stage in the Program when they return;
 - c) the Resident's return to their training may be delayed for a variety of reasons. A Resident may be required to take a leave of absence, which may be unpaid, until such time as they can return to their training program;
 - d) the Associate Dean will take reasonable steps to give effect to the decision without unnecessary delay;
 - e) decisions of the Program, or Associate Dean, pursuant to this section, cannot be appealed.
- 8.11** All written and oral information regarding an appeal is confidential.
- 8.12** Appeal hearings will not be open to the public.
- 8.13** Oral appeal hearings will be audio recorded. The recording is done for convenience purposes only and the malfunction of the recording device or loss of the recording will not invalidate, in any way, the related appeal hearing or PGME Appeals Committee decision.
- 8.14** No other recordings, audio or otherwise, of an oral appeal hearing are permitted.
- 8.15** The deliberations of the PGME Appeals Committee will not be recorded.
- 8.16** All appeal records will be retained in accordance with the University of Calgary's records retention guidelines.

9 Further Appeal

- 9.1** The PGME Appeals Committee is the only and final level of appeal for all Academic Assessment and Academic Progression matters for Residents of the PGME Program.

10 Related Information

All Residents will be given access to this document 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 can provide confidential advice and assistance in preparing appeal documents, as well as liaise with faculty and refer to other resources.

P: 403.220.6420

E: ombuds@ucalgary.ca

W: <https://www.ucalgary.ca/student-services/ombuds>

11 History

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