

## **Policy on Probation, Suspension, Non-Renewal, Non-Promotion, and Dismissal (Separation)**

Effective 03/10/2023

McGaw provides trainees with due process relating to the following actions regardless of when the action is taken during the appointment period: probation, suspension, non-renewal, non-promotion, and dismissal (separation). When taking adverse action against a trainee, many factors may be considered, including, but not limited to, performance deficiencies, fitness, or misconduct.

The process used to address performance deficiencies is described below. The procedures set forth below are intended to treat the trainee fairly if performance deficiencies arise. If circumstances raise a significant issue whether the Designated Institutional Official (DIO) or President can fairly decide the matter or where a trainee's participation represents a significant conflict, the DIO or President of McGaw will recuse themselves from a particular decision to impose discipline (in the case of the DIO) or decide an appeal (in the case of the President) neither the DIO nor the President shall be considered to have a conflict of interest simply by virtue of prior communications or other involvement with or regarding the trainee. In the event of a recusal by the DIO or President, the Dean of the School of Medicine shall appoint a replacement to fulfill the role of the DIO or President as described in the procedures set forth below.

If the DIO, after consulting with the Program Director, determines that a trainee's performance is unsatisfactory and therefore decides that probation, suspension, non-renewal, non-promotion, or dismissal (separation) is appropriate, the DIO or Program Director will notify the trainee of this decision in writing. The written decision of the DIO or Program Director will include a statement of the reason(s) for the adverse action. Upon request, the trainee shall have the opportunity to review their training file but may not copy it. The program will have a representative present while the trainee is reviewing the file. In circumstances where the DIO determines, in consultation with the Program Director, that a trainee's continued presence would pose an unacceptable threat to patient safety, the DIO or Program Director may place the trainee on summary administrative leave (with pay and benefits) pending an investigation or final decision in accordance with the procedures set forth in this section.

### **Letter of Warning**

A letter of warning is appropriate if concerns arise or continue regarding the performance or conduct of a trainee that do not warrant probation or other type of disciplinary action. A warning will be given to the trainee explaining why the conduct or performance is unacceptable. Such a warning may include notification that continued lack of improvement may warrant probation or other more severe disciplinary action. A warning should be provided to the trainee in person and in writing. A letter of warning does not represent a disciplinary action, thus there is no appeal process available to challenge a letter of warning.

### **Probation**

Probation is appropriate if a trainee's performance falls below acceptable standards or other deficiencies exist. A decision to place a trainee on probation may be preceded by a warning, but a prior warning is not a prerequisite to placing a trainee on probation (or to imposing any other form of disciplinary action). The reasons for probation should be explained to the trainee in person and in writing. Expectations for improvement, the methods for evaluating improvement, the anticipated duration of probation, and possible future actions should be delineated in writing.

A probationary period should be long enough to permit a thorough evaluation of progress. Except in unusual circumstances, a period of at least two to four months will be appropriate, but the length of any period of probation shall be determined by McGaw in its sole discretion on a case-by-case basis. Alternatively, if a trainee's lack of progress requires a period of probation late in the training year, McGaw retains the right to extend the current training year until a decision regarding adequacy of remediation can be made.

A template for a probationary letter is available in the GME office. Please contact the GME office at [gme@northwestern.edu](mailto:gme@northwestern.edu).

### **Suspension**

Suspension is appropriate if a trainee's performance deficiencies are deemed to be sufficiently serious to result in being removed from the training environment. Suspension is a period of time in which the trainee is not allowed to take part in any training activities or other activities associated with their program, except for any activities expressly approved by the DIO. Suspension may or may not be linked to an ongoing investigation, fitness for duty evaluation, or consideration of other disciplinary action and / or appeal. Any time spent on a period of suspension may not be counted toward completion of program requirements. A suspension may be with or without pay, depending upon the circumstances to be determined by the DIO.

### **Non-Promotion**

Non-promotion is appropriate if a trainee is not making progress sufficient to warrant promotion to the next PGY level. In this case, the trainee may be required to repeat an entire year of training or only specific rotations. The trainee's total length of training will be extended. Non-promotion may or may not follow a preceding warning or period of probation. Non-promotion may also be implemented independently by the Program Director or DIO as a disciplinary or non-disciplinary educational action based on the reason(s) for non-promotion. In cases of non-promotion, the trainee may still appeal the decision as set forth below. A non-promotion may lead to a required extension of training.

### **Non-Reappointment / Dismissal (Separation)**

A trainee's serious performance deficiencies and / or failure to remediate suboptimal academic and / or clinical performance may lead to a decision by the Program Director or the DIO not to reappoint the trainee at the end of the current training year (non-reappointment) or to dismiss (separate) the trainee immediately from the program during an academic year. The action should be explained to the trainee in person and in writing. A template letter for a non-reappointment or dismissal (separation) is available in the GME office. Please contact the GME office at [gme@northwestern.edu](mailto:gme@northwestern.edu).

### **IDFPR Notification**

Early departure from a training program prior to completion for any reason will be communicated by the Program Director with the Illinois Department of Financial and Professional Regulation (IDFPR) in keeping with state law and will include a description of any disciplinary action or investigation. McGaw retains the right to notify the IDFPR of any disciplinary action or failure of a fitness for duty evaluation.

### **Appealing Adverse Action**

As noted above, letters of warning are not adverse actions and are therefore not subject to appeal.

All appeals must be based upon one or more of the following: (a) an error of procedure that reasonably could have affected the outcome of the decision being appealed; (b) new information that reasonably could have affected the outcome of the decision being appealed and that was not reasonably available at the time the decision being appealed was made; or (c) the decision or adverse action being manifestly unreasonable and unsupported by the great weight of the information considered in reaching the decision or adverse action that is being appealed.

To appeal an adverse action that is subject to appeal, a trainee must submit a written request for appeal to the DIO within seven (7) calendar days of receiving written notification of the decision. Any request for appeal must include a statement of the precise action being appealed and of the grounds supporting the appeal. The trainee may also submit documentary evidence in support of his or her appeal. The DIO will appoint three members from the standing McGaw appeals panel to serve as the Appeals Committee (“the Appeals Committee”). These three Appeals Committee members will not have been involved in the decision that is the subject of the appeal. Neither the DIO nor the Program Director will serve as a member of the Appeals Committee, but the Appeals Committee may wish to hear from the DIO and / or the Program Director in evaluating the trainee’s appeal. The Appeals Committee will be provided with the decision that is the subject of the appeal and any documents or other information upon which the decision is based as well as the trainee’s training file and request for appeal and any documentary evidence provided by the trainee. If requested by the trainee or by the Appeals Committee, the trainee will be given an opportunity to appear before the Appeals Committee. The trainee may bring a support person to the Appeals Committee meeting who is a member of the Northwestern Community (such as a trusted faculty mentor). The support person may not be a family member, a trainee, or an attorney. The support person may not address the committee directly. After deliberations, the Appeals Committee will arrive at a recommendation by majority vote and report its recommendation in writing to the President of McGaw, the DIO, and the Program Director whether to sustain, reverse, or modify the decision that is the subject of the appeal. The Appeals Committee may recommend imposition of a harsher sanction than the sanction initially imposed.

After receiving the recommendation of the Appeals Committee, the President of McGaw will make the final determination regarding the appeal. The President shall consider the information in the trainee’s training file and any other documentation presented to or considered by the Appeals Committee, as well as the Appeals Committee’s recommendation and any other information that the President deems relevant. The Appeals Committee’s recommendation is not binding on the President. The President may, in their discretion, interview the trainee, the DIO, the Program Director, the Chair of the Appeals Committee, and the Vice President for Academic Affairs, as well as any faculty members responsible for the supervision of the trainee or any other individuals with knowledge regarding the trainee’s performance.

The President may accept, reject, or modify the decision that is the subject of the appeal. This includes increasing the sanction imposed if the President determines, in their professional and academic judgment, that such an action is warranted, regardless of whether the Appeals Committee recommends doing so. The President will notify the trainee and the Program Director of their decision in writing. This decision will be final.

McGaw will make every effort to convey a decision not to reappoint or promote a trainee at least three months prior to the end of their current training year, but any failure on the part of McGaw to do so will not be grounds for challenging or overturning the decision not to reappoint a trainee.

All actions regarding performance deficiencies shall be documented in the trainee’s permanent file. If this information is requested, it shall be part of the information released to licensing bodies or in connection with future applications for licensure, clinical privileges, certification, training, or employment to the extent required or permitted by law.

#### **Addressing Performance Deficiencies After Separation from McGaw**

This policy applies to cases in which McGaw becomes aware of information after a trainee has completed, resigns, or otherwise leaves his or her training program that would have resulted in the trainee not being permitted to complete the training program or the trainee being subjected to

investigation, warning, probation, suspension, non-renewal, non-promotion, or dismissal (separation) pursuant to this policy.

McGaw and its training programs reserve the right to take action to address performance deficiencies that become known to McGaw after a trainee completes, resigns from, or otherwise leaves their training program. Such performance deficiencies could include, but are not limited to, conduct that is inconsistent with McGaw policies, procedures, or standards; conduct that is inconsistent with any policy, procedure, or standard of any McGaw member hospital or other training site; and conduct that McGaw determines in its judgment to be unprofessional. Possible actions include, but are not limited to, revocation of the former trainee's training certificate; retroactive dismissal (separation); or reports of findings to external agencies, such as the Accreditation Council for Graduate Medical Education (ACGME), state or other medical licensing boards, specialty certification boards, hospital appointment committees, hospitals or other potential employers, and licensing or credentialing verification services or bodies.

Prior to any action being taken by McGaw, the former trainee will be provided with notice of the suspected or alleged performance deficiencies and the action that McGaw proposes to take to address such deficiencies and will also be given an opportunity to respond to the information presented by McGaw. In addition, the former trainee will have the right to appeal any adverse decision as outlined in the Addressing Performance Deficiencies section of this policy.