



PURPOSE:

To establish a process to address academic performance by a **Resident** that fails to meet expected academic standards, and to address situations in which a **Resident** is alleged to have engaged in **Misconduct**.

SCOPE:

This Policy applies to all **Residents** in Residency Programs sponsored by THMEP or administered by THMEP on behalf of TMC/TMC Health and employed by TMC Health. Residents from non-THMEP/TMC programs visiting TMC for clinical education are subject to administrative oversight and control by THMEP, as stipulated in separate agreement, and are subject to the Policies and Procedures of their residency program. As employees of TMC Health, residents of THMEP and TMC sponsored residency programs are also subject to **TMC Human Resources (HR)** employment and due process policy and procedures.

POLICY ACKNOWLEDGEMENT:

- **Program Directors** are responsible for compliance with this Policy.
- For Accreditation Council for Graduate Medical Education (ACGME) accredited programs, the **Program Director** is responsible for monitoring that the **Program's Clinical Competency Committee (CCC)** complies with this Policy.
- For non-ACGME accredited programs, the **Program Director** must have an analogous system to monitor resident competence and to address academic deficiencies or misconduct, consistent with requirements of the relevant accrediting body, approved by the Designated Institutional Official (**DIO**)

DEFINITIONS:

- **Resident** refers to a resident in a training program in which THMEP serves as the Sponsoring Institution.
- **Program** refers to the training programs for **Residents** sponsored by THMEP or administered by THMEP on behalf of TMC/TMC Health.
- **Program Director (PD)** refers to the specialty faculty member who supervises each **Program** and has the authority and accountability for the operation of that **Program**.
- **Graduate Medical Education Council (GMEC)** refers to the THMEP body which is comprised of faculty, **Residents**, and clinical affiliate representatives whose responsibility is the oversight of the accreditation status of THMEP and each of its **Programs**, including oversight of the quality of the GME learning and working environment.
- **Faculty Advisor** refers to a faculty member who may be the **PD** and may be suggested by the **Resident**, who provides guidance during **Academic Deficiency** remediation. Of note, a **Program** may have **Faculty Advisors** for each **Resident** regardless of a need for remediation.
- **Advisor** refers to a faculty member or other advisor, including an attorney, who can serve in an advisory capacity for a **Resident** when meeting with the **CCC** related to an **Academic Deficiency, Misconduct, or Reportable Action**.
- **Clinical Competency Committee (CCC)** is the Committee responsible for the evaluation, monitoring, and reporting of each **Resident** during the proscribed curriculum of training. The **CCC** will advise the **PD** regarding **Resident** progress, including recommendations for promotion, remediation, and **Reportable Action(s)**.
- **Academic Performance** includes the knowledge, skills, and attitudes necessary to achieve competence in the core areas of medical knowledge, patient care, communication, professionalism, practice-based learning, and



systems-based practice. For ACGME accredited **Programs**, progression with specialty level Milestones is part of **Academic Performance** expectations.

- **Academic Deficiency** is determined by the **Program's CCC** and is defined as **Academic Performance** of a **Resident** that does not meet academic expectations, and is identified through review of the **Resident's Performance Feedback**.
- **Misconduct** includes, but is not limited to: improper behavior; intentional wrongdoing; or violation of a law, standard of practice, or **Program**, clinical affiliate, THMEP, or TMC. Examples include dishonesty, plagiarism, false documentation, discriminatory or harassing behavior, or medication diversion or theft.
- **Performance Feedback** is required to be routine and structured for each **Resident** during the course of the **Program**.
- **Summative Evaluation** by the **PD** is required for each **Resident** upon completion of the **Program**. This evaluation must become part of the **Resident's** permanent record maintained by the THMEP and must be accessible for review by the **Resident**. It must document the **Resident's** performance at the end of the **Program** and verify that the **Resident** has demonstrated sufficient competence to enter practice without direct supervision.
- **Remediation Plan** will be developed if the **CCC** determines that a **Resident** is not meeting **Academic Performance** expectations to guide performance improvement for the **Resident**.
- **Notice** to a **Resident** shall be deemed to be delivered when sent to the **Resident's** TMC email address.
- **Notice of Academic Deficiency** will be issued by the **CCC** to a **Resident** who has failed to achieve **Academic Performance**.
- **Notice of Successful Remediation** is issued by the **CCC** to a **Resident** when the **CCC** determines that the **Remediation Plan** was successful, and thereby terminates the **Remediation Plan**.
- **Notice of Failure to Remediate** is issued by the **CCC** to a **Resident** when the **CCC** determines that the **Remediation Plan** was unsuccessful. This **Notice** is provided when a **Reportable Action** is not being considered by the **CCC** and a new **Remediation Plan** will be developed.
- **Notice of Proposed Reportable Action** is issued by the **CCC** to a **Resident** who has failed to meet the expectations outlined in the **Notice of Academic Deficiency**.
- **Notice of Reportable Action** is issued by the **CCC** to the **Resident** when the **CCC** has determined that a **Reportable Action** needs to be taken. This **Notice** must occur after **Notice of Proposed Reportable Action** as described above.
- **Reportable Action** is an action that must be disclosed to any third party upon request including, but not limited to, future employers, hospitals, and licensing and specialty boards. An action that results in extension of training, election not to promote, probation, suspension, non-renewal of contract, or dismissal is considered a **Reportable Action**.
- **Request for Review of Reportable Action** is a **Resident's** right to request a review of any recommended **Reportable Action**.
- **Written Warning** may be issued by the **CCC** to a **Resident** when the **CCC** determines that **Misconduct** has occurred, but no other remediation or **Proposed Reportable Action** has been recommended. It shall include the findings of the investigation, outline expectations of future conduct, and explain that further **Misconduct** may result in other discipline, including a **Proposed Reportable Action**.



PROCEDURE:

A. ACADEMIC DEFICIENCIES

- Each **CCC** determines what skills, competencies, attitudes and Milestones must be demonstrated by a **Resident** at points throughout the **Program**, including determining when a **Resident** is not meeting minimal standards of performance in that **Program**. **Performance Feedback** is required to be routine and structured for each **Resident** during the **Program**. **Performance Feedback** includes end of rotation evaluations, performance on standardized tests or in structured patient contacts, patient satisfaction surveys, 360-degree evaluations, simulation education experiences, six-month Milestone performance assessment and semi-annual evaluations, and other **Program** specific evaluations. **Residents** are encouraged to seek out **Performance Feedback**, reflect, and self-assess their strengths and areas for improvement throughout their training. **Performance Feedback** must be timely to promote performance improvement.
- Deficiencies in **Academic Performance** by **Residents** will be identified and evaluated by the applicable **CCC** through review of the **Performance Feedback** tools as described above. Each evaluation should be considered but also viewed in the context of the entirety of the Resident's **Program**. The **CCC** will accept unsolicited and informal evaluations of **Academic Performance** of a **Resident**, but should not make recommendations regarding a **Resident's** progress or failure to meet academic expectations without substantiation of the concerns through at least one formal evaluation mechanism or without a comprehensive assessment of the **Resident's** performance.
- If a **Resident's** performance is deemed to be deficient by the **CCC**, the **PD** will be notified and the **CCC** will issue a **Notice of Academic Deficiency** to the **Resident**, setting forth a detailed description of the deficiency(ies) and describing specific examples related to the core competencies and/or Milestones.
- Following the issuance of a **Notice of Academic Deficiency**, the **CCC** (in conjunction with the **PD**) must develop a **Remediation Plan** to address the **Resident's Academic Deficiencies**. Before the **Remediation Plan** is finalized, the **PD** and/or **CCC** may meet with the **Resident** so that the **Resident** may have input into the activities that might address the **Resident's** performance issues. The **Remediation Plan** shall be in writing and set forth the following elements:
 - 1) A timeline for the remediation; the timeline shall not be indefinite.
 - 2) The performance goals and expectations for the **Resident**; what specific knowledge, skills, attitudes, and Milestones need to improve and how.
 - 3) A method to assess accomplishment and what **Performance Feedback** will specifically measure the **Academic Deficiency(ies)**. This may be routine **Performance Feedback**, but may also involve more frequent feedback, simulation assessment, chart reviews, and other evaluations, depending on the deficiency(ies).
 - 4) The manner in which and how often the **CCC** will monitor the **Resident's** progress; what **Performance Feedback** measures the **CCC** will use to evaluate the **Resident's** performance, the need for modification of the **Remediation Plan**, and the successful completion of remediation.
 - 5) The **Resident's** responsibilities in the **Remediation Plan**; these must be specified so that there is accountability of the **Resident** during the process.
 - 6) Assignment of a **Faculty Advisor** during the remediation period to provide the **Resident** with ongoing mentorship during remediation; this may be the **PD** or another faculty. Depending on the situation, input from the **Resident** regarding the assignment of the **Faculty Advisor** may be considered.
 - 7) An outline of the consequences of meeting/ not meeting the performance goals of the **Remediation Plan**; what determines successful completion of the remediation, and what happens if the **Resident** does not comply with or is unsuccessful in completing the remediation.



The CCC shall have the final approval of the **Remediation Plan**.

- **Notice of Successful Completion of Remediation:** The **Resident** will receive a **Notice of Successful Remediation** if the **CCC** determines that the **Resident** has met the performance goals of the **Remediation Plan**, which will thereby terminate the **Remediation Plan**. The **Summative Evaluation** of a **Resident** shall not reference any successful remediation for which there was no **Reportable Action** taken.
- **Notice of Failure to Remediate:** If the **Resident** fails to successfully meet the goals and expectations of the **Remediation Plan**, the **CCC** will determine the next steps, including the possibility of taking a **Proposed Reportable Action**. If no **Proposed Reportable Action** is being considered, a **Notice of Failure to Remediate** shall be issued to the **Resident** by the **CCC**, and a new **Remediation Plan** shall be developed and provided to the **Resident** as outlined in the procedures above.
- **Notice of Proposed Reportable Action:** If the **CCC** is considering recommending a **Reportable Action** (probation, delay in promotion, suspension, non-renewal of contract, or dismissal or termination from the Program), a **Notice of Proposed Reportable Action** shall be sent to the **Resident**, setting forth the failure to remediate and the **Proposed Reportable Action** being recommended by the **CCC**. The **Notice** must also notify the **Resident** of the opportunity to meet with the **CCC** prior to it issuing a **Notice of Reportable Action**, and that the **Resident** has five business days after receipt of the **Notice** to notify the **CCC** Chair and **PD** of a request to meet. If the **Resident** does not request a meeting with the **CCC**, the **CCC** shall issue a **Notice of Reportable Action**.
 - If the **Resident** requests a meeting with the **CCC**, the **Resident** may have the **Faculty Advisor** or other **Advisor** present with the **Resident** during the meeting, but the **Faculty Advisor** or **Advisor** may only act in an advisory capacity to the **Resident**, and may not otherwise actively participate in the meeting. If the **Faculty Advisor** or **Advisor** is a **CCC** member, that person shall not participate with the **CCC** in any further review of the matter.
 - Following this meeting, the **CCC** may recommend another **Notice of Academic Deficiency** and continuation or modification of the **Remediation Plan**, or a **Reportable Action**.
 - If the recommendation is for a **Reportable Action**, a **Notice of Reportable Action** must be issued to the **Resident**. The **Notice of Reportable Action** shall include all of the elements required in the **Notice of Academic Deficiency** and notify the **Resident** of the right to request a review of the **CCC's** recommendation as set forth in Section C.
 - The **PD** must immediately forward a copy of this **Notice of Reportable Action** to the **DIO**.

B. **MISCONDUCT:**

- **Misconduct** may be identified through the **Program** evaluation system, but may also be identified by informal or incident reports to the **Program's** administration.
- Upon receipt of a complaint of **Misconduct** by a **Resident**, an investigation of the complaint shall be undertaken. This initial investigation may be directed by the **PD** or a **CCC** member. This initial investigation must include a review of the complaint and a discussion with the **Resident**. If there is not sufficient information to conclude that **Misconduct** may have occurred, no further action will be taken. If further investigation is required, the matter will be referred to the **CCC**.
- If the matter involves allegations of sexual harassment and/or any Title IX or equity concern (i.e., discrimination), the **PD** must perform initial investigation, notify the **DIO** and refer this complaint to **TMC Compliance Officer** with this preliminary information, and then will assist in any investigation, as requested by HR.



- If the matter involves possible medication diversion or theft, the **PD** must immediately notify the **DIO** and **TMC Compliance Officer**.
- If the alleged **Misconduct** occurred at a clinical affiliate, other investigations may be required by that site or other entities. Per agreements with the THMEP and TMC, clinical affiliates have the right to determine whether a **Resident** may work at their site during the investigation, or the **PD** may also remove the **Resident** from that clinical affiliate site during the investigation.
- The **Resident** is expected to cooperate with all investigations of alleged **Misconduct**.
- If alleged misconduct is sufficient to potentially lead to adverse action, including but not limited to a **Reportable Action**, against the **Resident**, the **DIO** but be notified by the **PD** as soon as is reasonably possible.
- If further investigation is required, the **CCC** will review the complaint of **Misconduct**, the evidence gathered by the investigation, and will meet with the **Resident** regarding the complaint. The **CCC** may also collect additional information, independent of the initial investigation. This investigation can be independent and/or as a result of other entities' investigation findings. If a **Reportable Action** is being considered by the **CCC**, a **Notice of Proposed Reportable Action** will be sent to the **Resident**. The procedures set forth in Section A.7 will be followed.
- At any time, if new information pertaining to the alleged **Misconduct** is brought to the attention of the **CCC**, the **CCC** has the right to reopen the investigation.

C. REQUEST FOR REVIEW OF REPORTABLE ACTION:

- A **Resident** has the right to request a review of any **Reportable Action** recommended by the **CCC** in a **Notice of Reportable Action**. The purpose of this review is to determine if, when the basis for the **Reportable Action** is **Academic Deficiencies**, sufficient documentation is present to warrant academic concerns, to determine if the **Resident** has previously had the opportunity for remediation, and if this Policy and Procedure has been substantially followed. If the basis for the **Reportable Action** is **Misconduct**, it is to determine if there is substantiation of the complaint and the complaint is serious enough to warrant **Reportable Action**.
- The **Resident** must request a review in writing or by email directed to the **PD** within five (5) business days of the date of receipt of the **Notice of Reportable Action**.
- If the **Reportable Action** is suspension or dismissal from the **Program** or if there are concerns for patient safety, and the **Resident** timely requests a review, the **CCC** may remove the **Resident** from all clinical duties and place the **Resident** on a paid leave of absence, but in its discretion may allow the **Resident** to continue with the didactic curriculum until the review process is completed.
- Upon receipt of a timely request for review from the **Resident**, the **PD** must provide a copy of the request for review to the **DIO**, the **CCC** Chair and **HR**.
- The **DIO** will select three members of the GMEC who are not faculty in the **Resident's Program**; these three members will constitute the Review Committee. The **DIO** will notify the **PD** and the **Resident** of the identity of the members of the Review Committee as soon as reasonably possible.
- Within ten (10) business days of receipt of notification of the members of the Review Committee, the **PD** must provide the **Resident** and the members of the Review Committee the following materials:
 - All information related to the basis for the **Reportable Action**.
 - A written report from the **CCC** summarizing the rationale for the recommendation for the **Reportable Action**.
 - For **Academic Deficiencies**, copies of all **Notices of: Academic Deficiency; Failure to Remediate; Proposed Reportable Action**; and **Reportable Action** issued to the **Resident**.
 - For **Misconduct**, copies of all materials reviewed by the **CCC** in that matter and the **Notice of Reportable Action**.



- Within ten (10) business days of receipt of notification of the members of the Review Committee, the **Resident** must provide any materials that the **Resident** wants the Review Committee to consider to the Review Committee members, the Chair of the **CCC**, and the **PD**.
- The expectation is that the review will occur as quickly as reasonably possible, and in general, it is expected this will be within fourteen (14) business days of the date the materials are received by the **Resident**, Chair of the **CCC**, **PD**, and Review Committee members. The Review Committee will schedule the review in conjunction with the schedules of the **Resident**, Chair of the **CCC**, **PD**, and Review Committee members.
- The Review Committee, in its sole discretion, may extend the time for materials to be provided and for the date of the review.
- During the review:
 - The **Resident** shall have the opportunity to present his/her perspective and respond to any questions from the members of the Review Committee. The **Resident** will meet with the Review Committee alone; however, an **Advisor** may be present with the **Resident** during the meeting, but the **Advisor** may only act in an advisory capacity to the **Resident**, and may not otherwise actively participate in the review. The **Resident** shall notify the Review Committee if an **Advisor** will be present and the identity of the **Advisor** at least 5 calendar days prior to the meeting.
 - Following the meeting with the **Resident**, the **PD** and/or Chair of the **CCC** shall have the opportunity to present their perspectives and respond to any questions from the members of the Review Committee. The **PD** and/or Chair of the **CCC** shall meet with the Review Committee independent of the **Resident**.
 - The Review Committee may request additional materials or the opportunity to talk with other individuals. If any additional review materials are requested, they must be provided to the Review Committee, Chair of the **CCC**, **PD**, and the **Resident** within five (5) business days, unless an extension is granted by the Review Committee.
 - Upon receipt of any additional materials:
 - i. The **Resident** must have the opportunity to respond to the Review Committee regarding the additional materials, in writing, within five (5) business days of the receipt of the additional materials.
 - ii. The Review Committee may request another meeting with the **Resident** (either after receipt of the additional materials and/or receipt of the response to the additional materials by the **Resident**).
 - iii. The Review Committee may request another meeting with the **PD** and/or Chair of the **CCC**.
 - A final decision from the Review Committee should be rendered within five (5) business days of the conclusion of its meetings and review of all materials requested.
 - The Review Committee may:
 - i. Adopt or modify the **Reportable Action** recommended by the **CCC** and the **Reportable Action** becomes final.
 - ii. Request further review by the **CCC** based on defined issues or questions. The **CCC** must review the issues or questions from the Review Committee and render a final recommendation to the Review Committee within fourteen (14) days of the date of the Review Committee's request. The Review Committee will then render a final decision.
 - iii. The decision of the Review Committee must be provided in writing to the **Resident**, the **PD**, the **CCC** Chair, and **DIO**.
- It is the **PD's** responsibility to submit to the **GMEC** Chair a summary of any **Reportable Action** regarding a **Resident**.