

### Academic Deficiencies and Code of Conduct Violations/Non-Academic Deficiencies Review Procedures

#### Status Options for a Resident/Fellow with an Academic Deficiency

It is expected that all residents/fellows progress according to criteria set by the program. There are several options for a program director to help a resident/fellow reach the expected academic performance when a resident/fellow does not progress as expected. The Program Director will determine, on a case by case basis, which of the following options is most appropriate to address perceived deficiencies in academic performance for a particular resident/fellow. The options for an academic deficiency are Remediation, a Letter of Deficiency (LoD) and a Letter of Deficiency with Adverse Action (LoDAA).

Adverse Actions include:

- Delayed promotion of a resident/fellow with extension of contract/appointment
- Non-renewal of contract/appointment
- Termination/dismissal

#### Of note:

- A resident/fellow who is being formally remediated with either a Letter of Remediation or a Letter of Deficiency without Adverse Action at the time of promotion is by definition not meeting the standards of the program and therefore cannot be promoted to the next level of training. Therefore, this must result in an Adverse Action (*see Letter of Deficiency with Adverse Action in this policy*). All Adverse Actions will be reflected on the Final Residency/Fellowship Training Summary Verification form.
- If an Adverse Action is delayed promotion or non-renewal, a resident/fellow may remain in the training program during the appeal process. If a resident/fellow remains in the training program during the appeal process, he/she will receive pay and benefits.
- If a resident/fellow is terminated/dismissed, he/she will not receive pay, but benefits will continue throughout the appeal process.
- If an Adverse Action of termination/dismissal is rescinded at any level of appeal, the resident/fellow will rejoin the training program. Pay will be reinstated and will be retroactive to the termination/dismissal date

The options for a program director when a resident/fellow is identified as having an academic deficiency are described below.

#### Remediation

**The GME designee must be contacted by the Program Director as soon as it is determined that a Letter of Remediation may be required.**

A resident/fellow whose academic performance does not meet program standards in one or more of the competencies defined by the Accreditation Council for Graduate Medical Education (ACGME) may be given a period of Remediation to meet the program's standards. This status is not appealable and will not be reported to outside agencies (i.e., ACGME, boards or training verifications). **A period of remediation should not last longer than one month.** A resident/fellow cannot be promoted to the next level of training while on a status of Remediation.

Before a resident/fellow is placed on Remediation, the Program Director will meet with the resident/fellow to discuss observed deficiencies, a proposed remediation plan and, if adopted, the program's expectation of what is necessary for the resident/fellow to successfully remediate. At this juncture, the resident/fellow must be offered the opportunity to provide information to the Program Director regarding the observed deficiencies and the proposed remediation plan. To the extent the Program Director's decision to place a resident/fellow on Remediation is a joint decision with the Clinical Competency Committee or any other committee, any mitigating information provided by the resident/fellow must be shared with the Clinical Competency or other Committee prior to the decision.

The Letter of Remediation must be delivered to the resident/fellow within 3 business days of the decision to issue the Letter of Remediation and in a manner which requires a signed and dated receipt of delivery to the resident/fellow and a witness signature.

If the Remediation is successful and there are no further concerns in training, documentation of Remediation will be removed from the resident's/fellow's file upon successful completion of the program. This status is not reflected on the Final Residency/Fellowship Training Summary Verification form.

The resident/fellow file will include the following:

- Documentation of (1)the meeting to discuss the Remediation plan and expectations and (2) delivery of a Letter of Remediation to the resident/fellow
- Documentation of outcome after Remediation:
  - o Successful remediation **or**
  - o Transition to a Letter of Deficiency (LoD) or a Letter of Deficiency with Adverse Action (LoDAA)

### **Letter of Deficiency (LoD)**

**The GME designee must be contacted by the Program Director as soon as it is determined that a LoD may be required.**

A Letter of Deficiency (LoD) is a formal written notification of deficiency in one or more of the ACGME competencies. A Program Director may choose to address deficiencies with Remediation first, but is not required to use Remediation first if the Program Director determines that a LoD is warranted. This status is not appealable and will not be reported to outside agencies (i.e., ACGME, boards or training verifications). A resident/fellow may not be promoted to the next level of training while on a LoD.

Before a resident/fellow receives a LoD, the Program Director must meet with the resident/fellow and address the observed deficiencies, a proposed action plan, and if adopted the program's expectations of what is necessary for the resident/fellow to successfully remediate. At this juncture, the resident/fellow must be offered the opportunity to provide information to the Program Director regarding the observed deficiencies. To the extent the Program Director's decision to issue a resident/fellow a Letter of Deficiency is a joint decision with the Clinical Competency Committee or any other committee, any mitigating information provided by the

resident/fellow must be shared with the Clinical Competency or other Committee prior to the decision.

The LoD must be delivered to the resident within 3 business days of the decision to issue the LoD and in a manner which requires a signed and dated receipt of delivery to the resident/fellow and a witness signature.

If the remediation is successful and there are no further concerns in training, the LoD will be removed from the file upon successful completion of the program. This status is not reflected on the Final Residency/Fellowship Training Summary Verification form.

The resident/fellow file will include the following:

- Documentation of (1) the meeting(s) to discuss the deficiencies, action plan and expectations, and (2) delivery of the LoD to the resident/fellow.
- Documentation of outcome:
  - Successful remediation of the deficiency **or**
  - Transition to a Letter of Deficiency with Adverse Action (LoDAA)

**\*A resident/fellow cannot have a Letter of Deficiency for more than 6 months total throughout their training.**

### **Letter of Deficiency with Adverse Action (LoDAA)**

**The GME designee must be contacted by the Program Director as soon as it is determined that an LoDAA may be required.**

A Letter of Deficiency with Adverse Action is a formal written notification of deficiency in one or more of the ACGME competencies which reflects the need for intense remediation of the resident/fellow in order to meet expected milestones and to progress as expected in his/her training program. A Program Director may determine that a LoDAA is necessary after a period of Remediation; after a LoD; or a LoDAA may be the first step in addressing a deficiency. A LoDAA is required if a resident/fellow does not make adequate progress as outlined during a period of time with a LoD. A resident/fellow may not be promoted to the next level of training while on a LoDAA.

Adverse Actions include:

- Delayed promotion of a resident/fellow with extension of contract/appointment
- Non-renewal of contract/appointment
- Termination/dismissal

Adverse Actions, not the Letter of Deficiency, are appealable. A resident/fellow who received a LoDAA must be provided with access to the appeals process.

Before a resident/fellow receives a LoD with Adverse Action, the Program Director must meet with the resident/fellow and address the observed deficiencies, proposed action plan and if adopted, the program's expectation of what is necessary for the resident/fellow to successfully remediate. At this juncture, the resident/fellow must be offered the opportunity to provide information to the Program Director regarding the observed deficiencies. To the extent the Program Director's decision to issue a resident/fellow a LoDAA is a joint decision with the Clinical

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Competency Committee or any other committee, any mitigating information provided by the resident/fellow must be shared with the Clinical Competency or other Committee prior to the decision.

If after meeting with the resident/fellow, the Program Director proceeds with the LoDAA, the LODAA must be delivered to the resident/fellow within 3 business days of the decision to issue the LoDAA and in a manner which requires a signed and dated receipt of delivery to the resident/fellow and a witness signature.

The resident/fellow file will include the following:

- Documentation of (1)the meeting(s) to discuss the deficiencies, action plan and expectations (2) delivery of the LoDAA to the resident/fellow and (3) Documentation that the resident/fellow had access to the appeals process
  
- Documentation of outcome:
  - Successful remediation of the deficiency **or**
  - Consequences of failing to remediate the deficiency

The status of a resident/fellow with a LoDAA will be reflected on the Final Residency/Fellowship Training Summary Verification form.

A Letter of Deficiency with an Adverse Action may not be removed from a resident/fellow file.

**A resident/fellow who receives both an LoD and an LoDAA should not be in this status for more than 9 months total during his/her residency/fellowship training.**

### Appeal of Academic Adverse Actions

A resident/fellow is entitled to appeal an Adverse Action. At each level of appeal, the charge of the person or committee hearing the appeal is to determine if (1) appropriate process was followed and (2) if the decision to impose an Adverse Action was made on reasonable grounds. **At each level of appeal, the person or committee hearing the appeal will either rescind or uphold the Adverse Action.**

If an Adverse Action is upheld at any level of appeal, the resident/fellow must be informed about his/her right to appeal this decision to the next level of appeal.

If an Adverse Action is rescinded at any level of appeal, the Adverse Action will be removed from the Letter of Deficiency. The resident/fellow must still successfully remediate the deficiencies outlined in the LOD. In this situation, because the Adverse Action is removed from the LOD, the LOD itself will be removed from the resident's/fellow's file upon successful completion of the training program. This status would therefore not be reflected on the Final Residency/Fellowship Training Summary Verification form.

If the Adverse Action is upheld upon appeal, the status of a resident/fellow with a LODAA will be reflected on the Final Residency/Fellowship Training Summary Verification form.

### **Level 1: Appeal to the Clinical Competence Committee (CCC)**

If a resident/fellow chooses to appeal, he/she must notify the Program Director in writing of his/her intent within seven (7) business days of receiving the LoDAA. The Program Director must acknowledge receipt of the appeal in writing to the resident/fellow.

The CCC will convene to hear the appeal within ten (10) business days of receiving the appeal request. At this academic meeting, the resident/fellow will have the opportunity to state reasons why he/she feels the Adverse Action should not be taken.

The CCC has to deliver its decision in writing to the resident/fellow within three (3) business days of reaching a decision. The resident/fellow must sign and date the written decision to acknowledge receipt of said document within two (2) business days and deliver the signed copy to the Program Director. If the resident/fellow fails to do so, it will be so noted in the file.

### **Level 2: Appeal to the Department Chair or GME Designee**

If the CCC upholds the Adverse Action, the resident/fellow has the right to appeal the decision of the CCC and will be informed of his/her right to appeal. The appeal is to the Department Chair. If the Department Chair sits on the CCC, or if the Department Chair is the Program Director, the resident/fellow appeal is to the GME designee\*.

The resident/fellow must notify the Department Chair or GME Designee of his/her request to appeal in writing within seven (7) business days of receiving the CCC's written decision. The Department Chair must acknowledge receipt of the appeal in writing to the resident/fellow.

The resident/fellow and the Program Director must submit documents to be considered for the appeal to the Department Chair or the GME Designee within ten (10) business days of the appeal request. The Department Chair or GME Designee may seek input from additional sources (i.e.: the Program Director, other faculty, staff, etc.) as he/she deems appropriate. The Department Chair or the GME Designee will hold an academic meeting with the resident/fellow within fourteen (14) business days of receiving the documents. The resident/fellow will be given an opportunity to provide input at this meeting. The Department Chair or the GME Designee must deliver his/her decision in writing to the resident/fellow and the Program Director within three (3) business days of reaching a decision. The resident/fellow must sign and date the written decision to acknowledge receipt of said document within two (2) business days and deliver the signed copy to the program and the GME Office. If the resident/fellow fails to do so, it will be so noted in the file.

**\* The GME designee will be a voting member of the GMEC. This individual cannot be faculty in the resident's/fellow's training program nor can they have any prior involvement with the resident's/fellow's situation that led to the Letter of Deficiency with Adverse Action.**

### **Level 3: Appeal to the Associate Dean for Graduate Medical Education/Designee**

The resident/fellow has the right to appeal the decision of the Department Chair or GME Designee. The appeal is to the Associate Dean for Graduate Medical Education. If the Associate Dean for Graduate Medical Education must recuse himself/herself from the appeal, the appeal will be to a designee. The Associate Dean for Graduate Medical Education or designee will convene an ad hoc committee to hear the appeal.

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The resident/fellow must notify the Associate Dean for Graduate Medical Education of his/her request to appeal in writing within seven (7) business days of receiving the written decision of the Department Chair or GME Designee. The Associate Dean for Graduate Medical Education must acknowledge receipt of the appeal in writing to the resident/fellow.

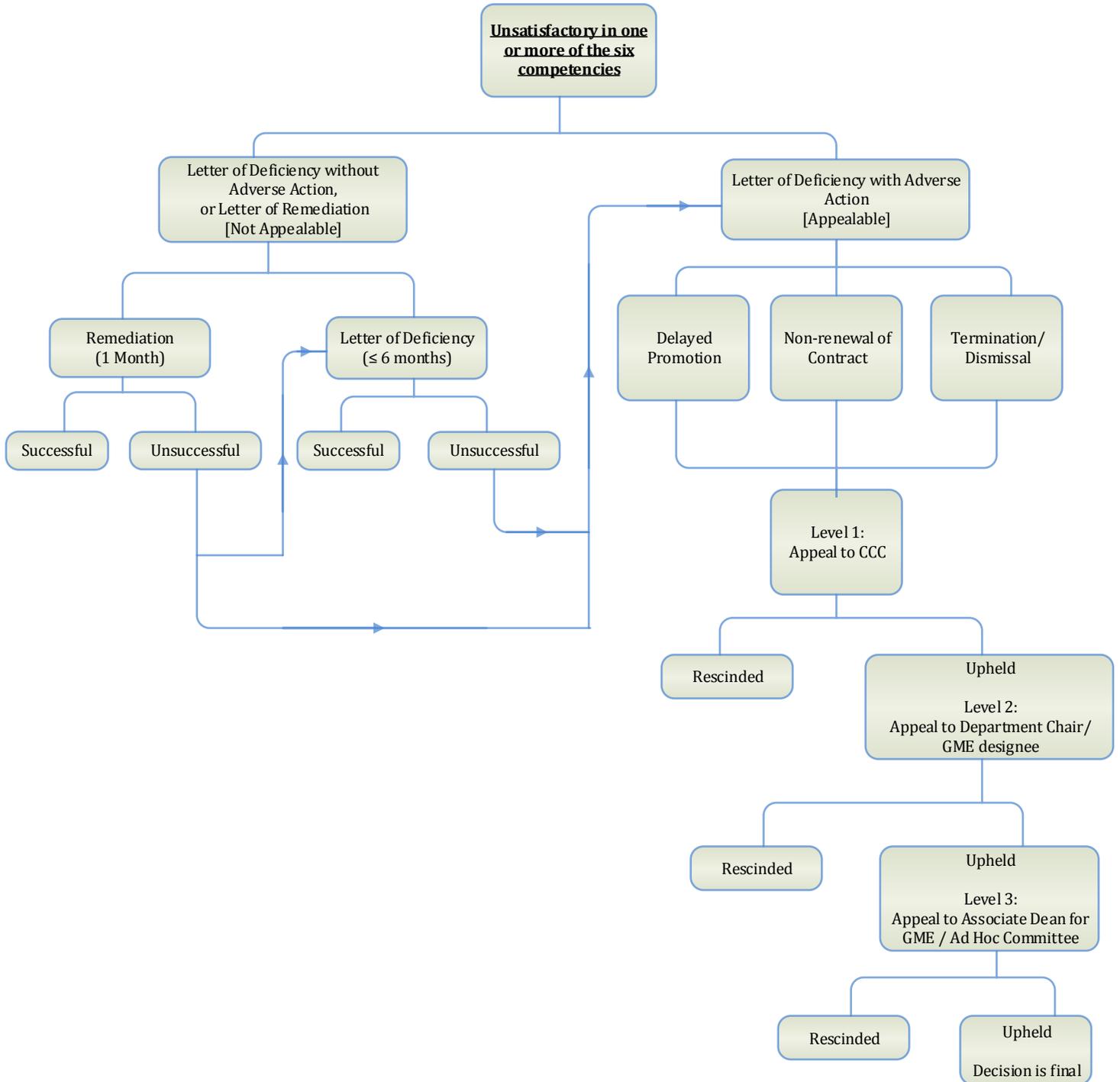
The resident/fellow and parties from each level of appeal must submit documents to be considered for the appeal to the Associate Dean for Graduate Medical Education or designee for distribution to the Ad Hoc Committee within ten (10) business days from when the resident/fellow submits the request for an appeal. The Ad Hoc Committee will hold an academic meeting within fourteen (14) business days of receiving the documentation. The Ad Hoc Committee may seek input from additional sources as it deems appropriate. The Ad Hoc Committee may also decide to interview the resident/fellow, the Program Directors, clinical faculty, staff, etc. as the committee deems necessary to make a decision. The decision of the Ad Hoc committee will be made by simple majority vote. The Ad Hoc committee is advisory to the Associate Dean for Graduate Medical Education or designee.

The Associate Dean for Graduate Medical Education or designee, in consultation with the Dean of the School of Medicine, will render a final decision.

The Associate Dean for Graduate Medical Education or designee must deliver the decision in writing to the resident/fellow and the Program Director within three (3) business days after a decision. The resident/fellow must sign and date the written decision to acknowledge receipt of said document within 2 business days and deliver the signed copy to the program and the GME Office.

**The Dean of the School of Medicine will be notified of all final decisions regarding adverse actions.**

**Algorithm for Academic Adverse Action Appeal Process**



Reviewed 11/17

### Code of Conduct Violations/Non-Academic Adverse Action

The University of Connecticut School of Medicine (UConn SOM) and all of its major affiliates have codes of conduct that apply to resident/fellow participation in program related duties wherein residents/fellows are expected to act in a professional, courteous, respectful, and confidential manner. The resident/fellow contract states that residents/fellows shall abide by all rules, regulations and bylaws of the program, clinical department, and institution in which he or she is assigned. Violating these rules may be cause for disciplinary action up to and including dismissal.

All Code of Conduct Violations have the potential to interfere with a resident's/fellow's performance and therefore may interfere with a resident's/fellow's ability to meet the expectations and requirements of a resident's/fellow's academic program and employment.

Program Directors, faculty, other residents/fellows, patients and any other individual who has contact with resident/fellow physicians can report suspected Code of Conduct violations. If there is an allegation of a Code of Conduct violation, both the program director and the DIO/designee will be notified. An allegation of a Code of Conduct violation will be investigated by the program director, the DIO/designee, and when appropriate the Office of Institutional Equity and/or the police. During the period of investigation, it may be necessary to remove a resident/fellow from active participation in the clinical and educational responsibilities of the program (*see Administrative Leave without Prejudice policy*). In the course of an investigation of an alleged Code of Conduct Violation, the Program Director will meet with the resident/fellow in order that the resident/fellow might provide perspective regarding the alleged violation. This meeting and/or attempt will be documented.

If a Resident/Fellow has been placed on administrative leave due to a reported or suspected Code of Conduct Violation, and the alleged Code of Conduct Violation is not substantiated, the resident/fellow will return to the program.

If the Program Director determines that a Code of Conduct violation is substantiated by a preponderance of the evidence, the Program Director will meet with the resident/fellow to inform him/her of the outcome of the investigation and give the resident/fellow an opportunity to respond. If subsequent to this meeting, the Program Director decides to proceed with a Letter of Misconduct, the options are a Letter of Misconduct or a Letter of Misconduct with Adverse Action.

### **Letter of Misconduct (LOM)**

**The GME designee must be contacted by the Program Director as soon as it is determined that a LOM may be required.**

A Letter of Misconduct (LOM) is a formal written notification that states the nature of the Code of Conduct Violation and outlines the program's expectations of what corrective action is necessary for the resident/fellow to successfully complete training. The Letter of Misconduct should be delivered to the resident/fellow in a manner which requires a signed and dated receipt of delivery to the resident/fellow within three (3) business days of the Program Director's decision to issue a Letter of Misconduct.

The resident/fellow file must include:

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- Documentation of the meeting to discuss the Code of Conduct Violation and a corrective action plan.
- Documentation of outcome:
  - Successful corrective action or
  - Failure to meet expectations for corrective action

A Letter of Misconduct without Adverse Action will be removed from a resident/fellow file if the resident/fellow has satisfied the requirements of the corrective action plan and has successfully completed the training program.

### **Letter of Misconduct with Adverse Action (LOMAA)**

A Letter of Misconduct with Adverse Action (LOMAA) is a formal written notification that states the nature of the Code of Conduct violation, the Adverse Action, and where applicable, what corrective action is necessary for the resident/fellow to successfully complete training. The Letter of Misconduct with Adverse Action should be delivered to the resident/fellow in a manner which requires a signed and dated receipt of delivery to the resident/fellow within three (3) business days of the Program Director's decision to issue the letter.

Adverse Actions include:

- Delayed promotion of a resident/fellow with extension of appointment
- Non-renewal of contract/appointment
- Termination/dismissal

### **Of note:**

- All Adverse Actions will be reflected on the Final Residency/Fellowship Training Summary Verification form. If the Adverse Action is delayed promotion or non-renewal, a resident/fellow may remain in the training program during the appeal process. If a resident/fellow remains in the training program during the appeal process, he/she will receive pay and benefits.
- If a resident/fellow is terminated, he/she will not receive pay, but benefits will continue throughout the appeal process.
- If the Adverse Action of termination is rescinded at any level of appeal, the resident/fellow will rejoin the training program. Pay will be reinstated and will be retroactive to the termination/dismissal date
- Adverse Actions, not the Letter of Misconduct, are appealable.

The status of a resident/fellow with a LoDAA will be reflected on the Final Residency/Fellowship Training Summary Verification form.

A Letter of Misconduct with an Adverse Action may not be removed from a resident/fellow file.

### **Appeal of Non-Academic Adverse Action**

A resident/fellow has the right to appeal an Adverse Action. At each level of appeal, the charge of the person or committee hearing the appeal is to determine if (1) appropriate process was followed and (2) if the decision to impose an adverse action was made on reasonable grounds. **At each level of appeal, the person or committee hearing the appeal will either rescind or uphold the non-academic Adverse Action.**

If an Adverse Action is upheld at any level of appeal, the resident/fellow must be informed about his/her right to appeal this decision to the next level of appeal.

If an Adverse Action is rescinded at any level of appeal, the Adverse Action will be removed from the Letter of Misconduct. The resident/fellow must still meet any requirements for corrective action outlined in the Letter of Misconduct unless excused by the Program Director. In this situation, because the Adverse Action is removed from the LOM, the LOM itself will be removed from the resident's/fellow's file upon successful completion of the training program. This status would therefore not be reflected on the Final Residency/Fellowship Training Summary Verification form.

If the Adverse Action is upheld upon appeal, the status of a resident/fellow with a LOMAA will be reflected on the Final Residency/Fellowship Training Summary Verification form.

### **Level 1: Appeal to the Clinical Competence Committee (CCC)**

If a resident/fellow chooses to appeal, he/she must notify the Program Director in writing of his/her intent within seven (7) business days of receiving the Letter of Misconduct with Adverse Action. The Program Director must acknowledge receipt of the appeal in writing to the resident/fellow.

The CCC will convene to hear the appeal within ten (10) business days of receiving the appeal request. At this academic meeting, the resident/fellow will have the opportunity to state or provide reasons why he/she feels the Adverse Action should not be taken.

The CCC has to deliver its decision in writing to the resident/fellow within three (3) business days of reaching a decision. The resident/fellow must sign and date the written decision to acknowledge receipt of said document within two (2) business days and deliver the signed copy to the program director. If the resident/fellow fails to do so, it will be so noted in the file.

### **Level 2: Appeal to the Chair of the Department**

If the CCC upholds the Adverse Action, the resident/fellow has the right to appeal the decision of the CCC and will be informed of his/her right to appeal. The appeal is to the Department Chair. If the Department Chair sits on the CCC, or if the Department Chair is the Program Director, the resident/fellow appeal is to the GME designee\*.

The resident/fellow must notify the Department Chair or GME Designee of his/her request to appeal in writing within seven (7) business days of receiving the CCC's written decision. The Department Chair must acknowledge receipt of the appeal in writing to the resident/fellow.

The resident/fellow and the Program Director must submit documents to be considered for the appeal to the Department Chair or the GME Designee within ten (10) business days of the appeal request. The Department Chair or GME Designee may seek input from additional sources (i.e.: the Program Director, other faculty, staff, etc.) as he/she deems appropriate. The Department Chair or the GME Designee will hold an academic meeting with the resident/fellow within fourteen (14) business days of receiving the documents. The resident/fellow will be given an opportunity to provide input at this meeting. The Department Chair or the GME Designee must deliver his/her decision in writing to the resident/fellow and the Program Director within three (3) business days

of reaching a decision. The resident/fellow must sign and date the written decision to acknowledge receipt of said document within two (2) business days and deliver the signed copy to the program and the GME Office. If the resident/fellow fails to do so, it will be so noted in the file.

**\* The GME designee will be a voting member of the GMEC. This individual cannot be faculty in the resident's/fellow's training program nor can they have any prior involvement with the resident's/fellow's situation that led to the LOMAA.**

### **Level 3: Appeal to the Associate Dean for Graduate Medical Education /designee**

The resident/fellow has the right to appeal the decision of the Department Chair or GME Designee. The appeal is to the Associate Dean for Graduate Medical Education. If the Associate Dean for Graduate Medical Education must recuse himself/herself from the appeal, the appeal will be to a designee. The Associate Dean for Graduate Medical Education or designee will convene an ad hoc committee to hear the appeal.

The resident/fellow must notify the Associate Dean for Graduate Medical Education of his/her request to appeal in writing within seven (7) business days of receiving the written decision of the Department Chair or GME Designee. The Associate Dean for Graduate Medical Education must acknowledge receipt of the appeal in writing to the resident/fellow.

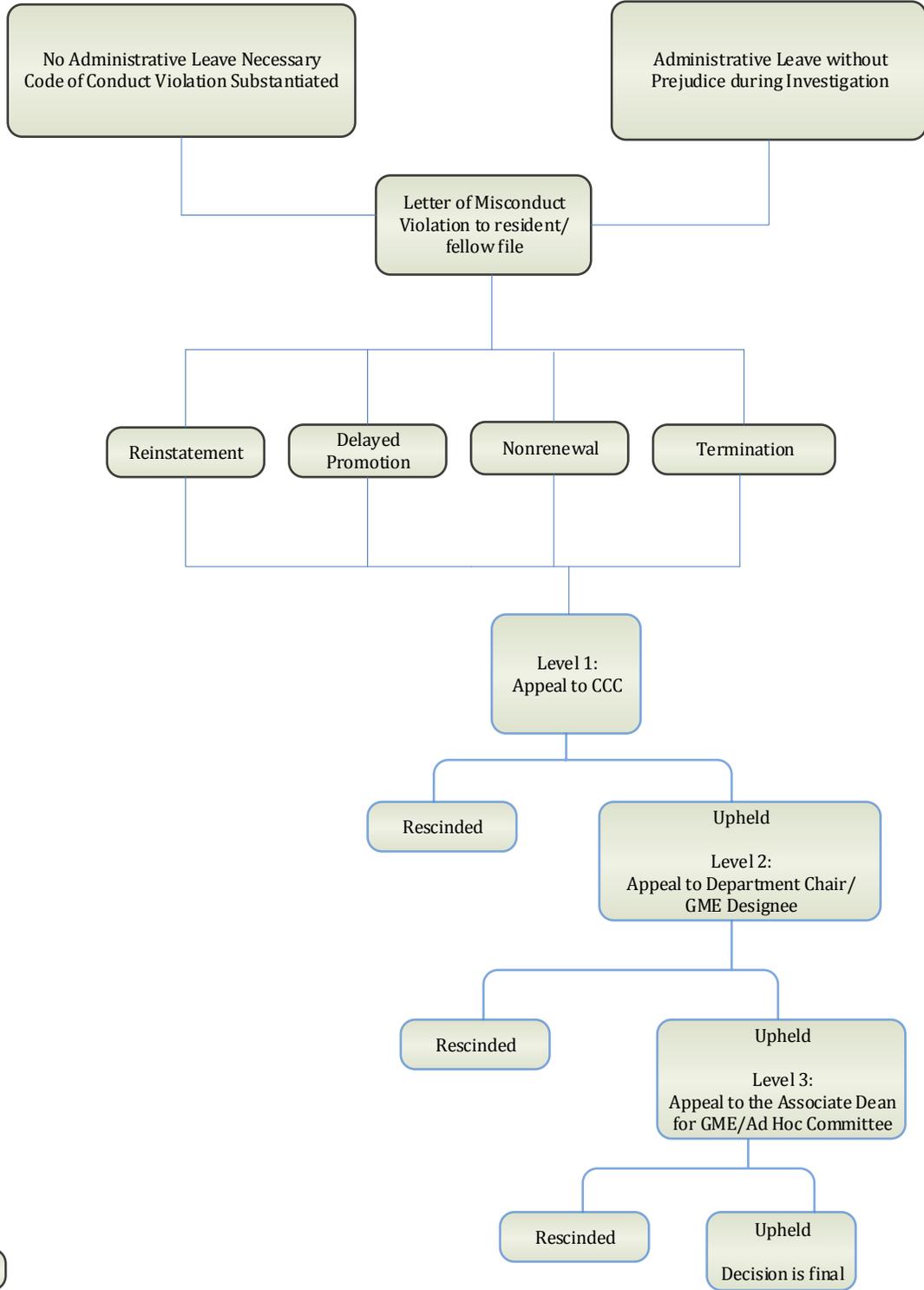
The resident/fellow and parties from each level of appeal must submit documents to be considered for the appeal to the Associate Dean for Graduate Medical Education or designee for distribution to the Ad Hoc Committee within ten (10) business days from when the resident/fellow submits the request for an appeal. The Ad Hoc Committee will hold an academic meeting within fourteen (14) business days of receiving the documentation. The Ad Hoc Committee may seek input from additional sources as it deems appropriate. The Ad Hoc Committee may also decide to interview the resident/fellow, the Program Directors, clinical faculty, staff, etc. as the committee deems necessary to make a decision. The decision of the Ad Hoc committee will be made by simple majority vote. The Ad Hoc committee is advisory to the Associate Dean for Graduate Medical Education or designee.

The Associate Dean for Graduate Medical Education or designee, in consultation with the Dean of the School of Medicine, will render a final decision.

The Associate Dean for Graduate Medical Education or designee must deliver the decision in writing to the resident/fellow and the Program Director within three (3) business days after a decision. The resident/fellow must sign and date the written decision to acknowledge receipt of said document within 2 business days and deliver the signed copy to the program and the GME Office.

**The Dean of the School of Medicine will be notified of all final decisions regarding adverse actions.**

Algorithm for Code of Conduct Violation/Non-Academic Adverse Action Appeal Process



Revised 11/17