

### DEFICIENCIES AND DUE PROCESS

#### (Academic Deficiencies and Code of Conduct Violations/Non-Academic Deficiencies)

##### 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 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 appointment (non-promotion)
- Non-renewal of an appointment.
- Termination/dismissal

##### Of note:

- A resident who is being informally (Remediation) or formally (LoD) remediated at the point of promotion is by definition not meeting the standards of the program and therefore cannot be promoted to the next level of training. Therefore, by definition, this must be turned into an Adverse Action (non-promotion) and is subject to the appeals process.
- All Adverse Actions will be reflected on the Final Verification of Training Form.
- If the Adverse Action is delayed promotion or non-renewal, a resident/fellow may remain in the training program during the appeals process.
- If a resident/fellow works during the appeals process they will receive pay and benefits.
- If a resident is dismissed they 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- If the Adverse Action of termination is rescinded at any level of appeal, the resident/fellow will rejoin the training program.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 date

The options for a program director when they identify an academic deficiency are described below.

##### Remediation

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.

When a resident/fellow is placed on Remediation, the Program Director will meet with the resident/fellow to discuss the remediation plan and the program's expectation of what is

necessary for the resident/fellow to successfully remediate. The resident/fellow file will include the following:

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

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 verification.

***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)**

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

When a resident/fellow receives a LoD, the Program Director must meet with the resident/fellow and address the action plan and the program's expectations of what is necessary for the resident/fellow to successfully remediate. The resident/fellow file will include the following:

- Documentation of the meeting to discuss the deficiencies, action plan and expectations
- Documentation of outcome:
  - Successful remediation of the deficiency **or**
  - Transition to a Letter of Deficiency with Adverse Action (LoDAA)

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 verification.

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

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

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
- Nonrenewal of Appointment
- Termination/Dismissal

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

When a resident/fellow receives a LoD with Adverse Action, the Program Director must meet with the resident/fellow and address the action plan and the program's expectation of what is necessary for the resident/fellow to successfully remediate. The resident/fellow file will include the following:

- Documentation of the meeting to discuss the deficiencies, action plan and expectations
- Documentation of outcome:
  - Successful remediation of the deficiency **or**
  - Consequences of failing to remediate the deficiency
- Documentation that the resident/fellow had access to the appeals process

A LoDAA should be delivered to the resident/fellow in a manner which requires a signed and dated receipt of delivery to the resident/fellow and a witness signature. The status of a resident/fellow with a LoDAA will be reflected on the final residency/fellowship training verification.

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

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

### Appeal and Due Process of Academic Adverse Actions

A resident/fellow is entitled to due process and 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) due 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 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. 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.

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.

#### **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 7 business days of receiving the LoDAA.

The CCC will convene to hear the appeal within 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 3 business days of coming to 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.

#### **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 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 7 business days of receiving the CCC's written decision.

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 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 14 business days of receiving the documents. The Department Chair or the GME Designee must deliver his/her decision in writing to the resident/fellow and the Program Director within 3 business days of reaching 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 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 appeal.**

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

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

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

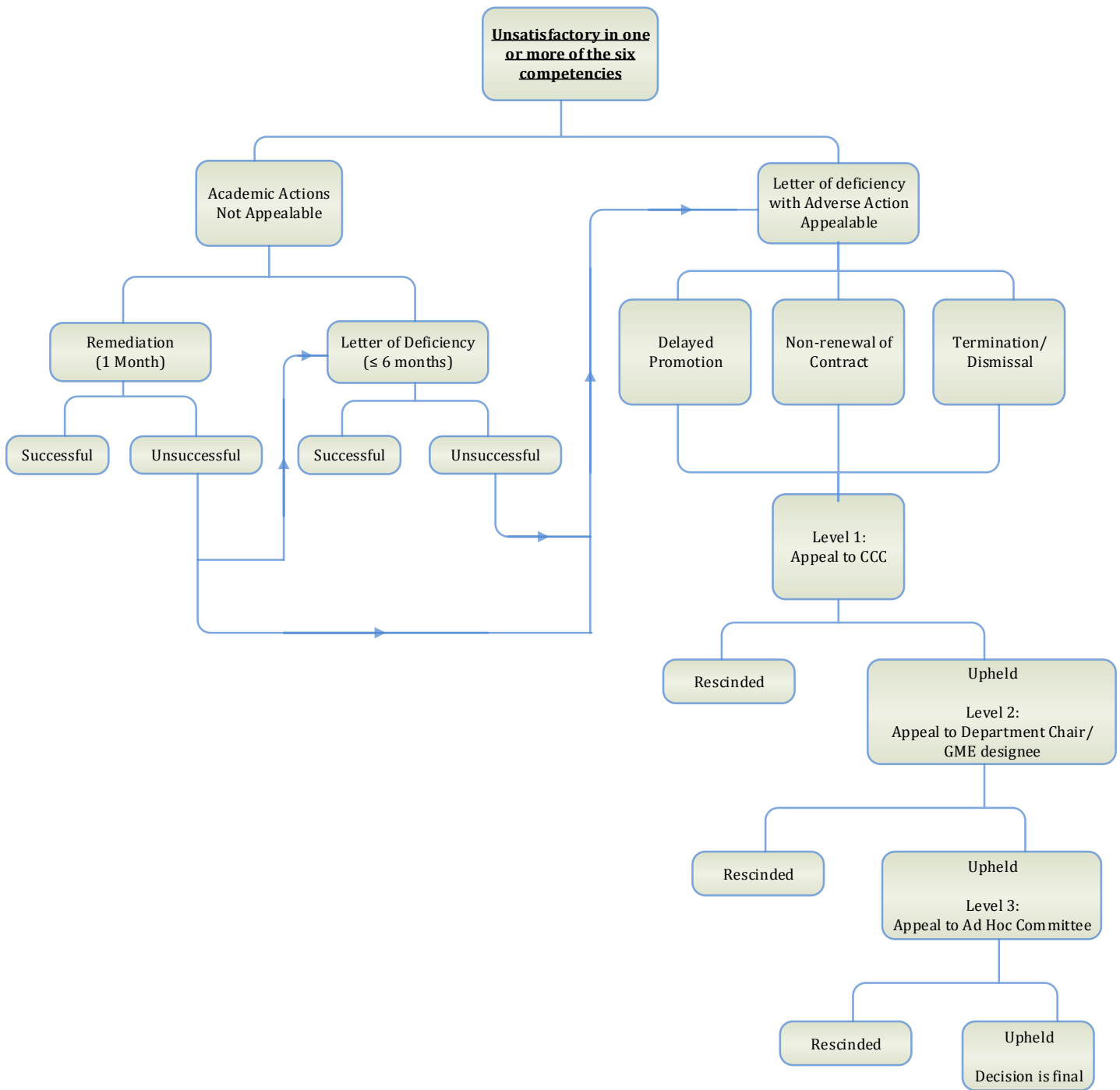
The resident/fellow and parties from each level of appeal must submit documents to be considered for the appeal to the Senior Associate Dean for Education or designee for distribution to the Ad Hoc Committee within 10 business days from when the resident/fellow submits the request for an appeal. The Ad Hoc Committee will hold an academic meeting within 14 business days of receiving the documentation. The Ad Hoc Committee may seek input from additional sources as they deem 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 Senior Associate Dean for Education or designee.

The decision of the Senior Associate Dean for Education or designee is final.

The Senior Associate Dean for Education or designee must deliver the decision in writing to the resident/fellow and the Program Director within 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 3/15

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

Residents/fellows should strive for excellence in all aspects of their personal and professional lives. This implies a professional demeanor and conduct in direct patient care and in interactions with patients, family members, other healthcare professionals, support staff and the public. It also implies an assurance of integrity in both one's professional and personal lives through behavior that is consistent with establishing a level of trust and a professional reputation that are essential to the physician-patient relationship and to the provision of high quality patient care.

The University of Connecticut School of Medicine (UConn SOM) and all of its major affiliates have codes of conduct that state that employees 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 a 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 violation. 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 can sometimes involve the Office of Diversity and 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 the **Administrative Leave without Prejudice policy** for further information.*

If a Resident/Fellow requires administrative leave, and the alleged Code of Conduct Violation is not substantiated, the resident/fellow will return to the program.

If a Code of Conduct Violation is substantiated or if the preponderance of evidence supports that a Code of Conduct Violation has occurred, the resident/fellow will receive a Letter of Misconduct which is a formal written notification that states the nature of the Code of Conduct Violation. A 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 2 business days after deciding that an allegation has merit.

Code of Conduct Violations may result in one of the following actions or adverse actions:

Actions:

- Continuation in the program
- Reinstatement into the program if resident on Administrative Leave

Adverse Actions:

- Delayed promotion of a resident/fellow with extension of appointment (non-promotion)
- Non-renewal of an appointment

### Termination/Dismissal

#### **Of note:**

- For continuation or re-instatement: The resident/fellow must meet with the Program Director to address the program's expectations of what corrective action is necessary for the resident/fellow to successfully complete training. The resident/fellow file must include:
  - 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
- Documentation of the meeting discussing why termination is the option/review with the resident/fellow the Final Verification of Training Form
- The Letter of Misconduct may be removed from the resident/fellow's file only if the outcome of an investigation results in re-instatement to the program. This will be at the discretion of the Program Director in consultation with the DIO/designee at the point when a resident/fellow has completed all elements of his/her training program.
- Adverse Actions will be reflected on the final residency/fellowship training verification form.
- If the Adverse Action is delayed promotion or non-renewal, a resident/fellow may remain in the training program during the appeals process. If a resident is terminated they will not receive pay, but benefits will continue throughout the appeal.
- 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 date
- Adverse Actions, not the Letter of Misconduct, are appealable and therefore eligible for due process.

***All cases of alleged and substantiated Code of Conduct Violations must be disclosed to the DIO/designee***

### **Appeal and Due Process of Non-Academic Adverse Action**

A resident/fellow is entitled to due process and 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) due 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 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. The Letter of a Misconduct will be removed from the resident's/fellow's file upon successful completion of training only at the discretion of the Program Director in consultation with the GME Office. If a Letter of Misconduct results in an Adverse Action and the Adverse Action is upheld at an appeal, the final verification of training will disclose the misconduct.

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.



### 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 7 business days of receiving the Letter of Misconduct with Adverse Action.

The CCC will convene to hear the appeal within 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 3 business days of reaching 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 director.

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

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\*.

If the resident/fellow chooses to appeal, he/she must notify the Chair of the Department/GME designee in writing within 7 business days of receiving the Letter of Misconduct with Adverse Action. The resident/fellow must indicate in writing why he/she feels the Adverse Action should not be taken.

The Chair must do the following:

- Acknowledge receipt of the appeal in writing to the resident/fellow
- Request and receive all necessary documents from each prior level of appeal within 5 business days of acknowledging receipt of the appeal
- May seek input from additional sources i.e.,: interview the resident/fellow, the Program Directors, clinical faculty, staff, etc.
- Meet with the resident/fellow within 10 business days of receiving the documents. Deliver his/her decision in writing to the resident/fellow and to the Program Director and the DIO/designee within 3 business days of reaching 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 Department Chair and the program director.

**\* 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 appeal.**

### Level 3: Appeal to the Senior Associate Dean for Education of the School of Medicine/designee

## Residents/Fellows Policies and Procedures Manual

If the resident/fellow appeals the decision of the Department Chair/GME designee, he/she must notify the Senior Associate Dean for Education of the School of Medicine in writing within 7 business days of receiving the Department Chair's decision. The resident/fellow must indicate in writing why he/she feels the Adverse Action should not be taken.

The Senior Associate Dean must do the following:

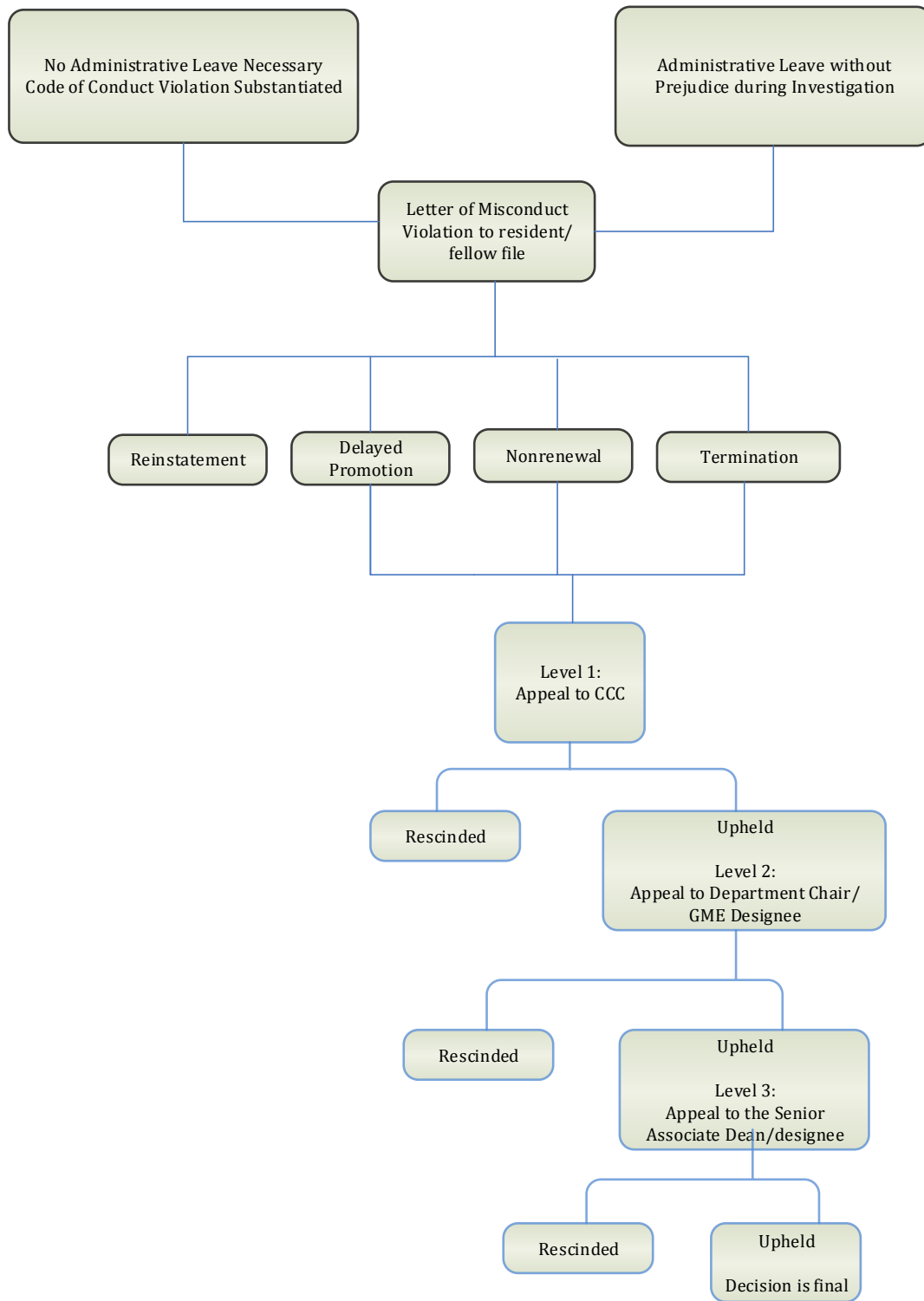
- Acknowledge receipt of the appeal in writing to the resident/fellow
- The Senior Associate Dean will request and receive all necessary documents from each prior level of appeal within 5 business days of acknowledging receipt of the appeal
- The Senior Associate Dean, after receiving all necessary documents, will convene an ad hoc committee. The Senior Associate Dean and the ad hoc Committee will hold an academic meeting with the resident/fellow within 14 business days of receiving the documentation. The Ad Hoc Committee may seek input from additional sources as they deem appropriate. They may interview the resident/fellow, the Program Directors, clinical faculty, staff, etc.
- 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 GME or the Senior Associate Dean for Education.
- The decision of the Senior Associate Dean is final and must be communicated in writing to the resident/fellow, to the GME Office, and to the Program Director within 3 business days of reaching 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 Director and DIO.

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

Revised 5/15

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



Revised 4/15