POLICY MANUAL

Date of Issue: 3/8/00

Policy #: GME-8242-012

Department of Primary Responsibility:
Academic Division – Graduate Medical Education

Revisions: 12/01, 08/03, 7/07, 3/13

Subject: GRIEVANCE PROCEDURE

Distribution: Department Chairs, Residents, Program Directors

PURPOSE:
To define the conditions and processes for Grievance – Fair Hearing available to residents fellows in Ochsner Clinic Foundation ACGME accredited programs

POLICY:

I. Ochsner Clinic Foundation will maintain a Grievance- Fair Hearing process and procedure that permits due process and adjudication of all actions resulting in termination or non-renewal. Contesting evaluations, letters of recommendation, documentation of performance, and probation are not grounds for a Grievance – Fair Hearing.

A. All efforts will be made to resolve problems, whenever possible, before filing a grievance. Residents are encouraged to present and discuss any grievance first with his/her chief resident or representative of the Fellows' Association. The grievance will then be presented to either the program director (for program-specific grievances) or to any member of the GMEC (for non-program-specific grievances).

B. A Grievance – Fair Hearing must be filed in writing within five (5) business days of the decision being grieved, addressed to the Office of Graduate Medical Education Administration

C. The process of the Grievance-Fair Hearing is to ensure that the resident's due process rights have been met.

D. A resident may be removed from clinical responsibility pending the Grievance – Fair Hearing, if the DIO determines that patient care may be compromised.

E. The DIO will assure that a Grievance – Fair Hearing is an appropriate means for adjudicating the complaint. If the request is not appropriate for a Grievance the resident will be notified in a written communication.

F. If deemed appropriate for adjudicating the complaint, the DIO will convene the Grievance- Fair Hearing board outlined in attached procedure. Subject to the availability of all parties, the first meeting of the Grievance – Fair Hearing Board will occur within 30 days of the written request.

G. The Fair Hearing Board will consist of the following five voting members, appointed by the DIO or designee in the cases of conflict of interest or inability to attend. The DIO (Chair) will be a non-voting member.
a. Three (3) faculty members from program not directly associated with the resident who has filed the Grievance – Fair Hearing.

b. Two (2) house officers from program not directly associated with that of the resident who has filed the Grievance- Fair Hearing.

II. In all cases of suspension, termination or non-renewal of contract it is expected that the appropriate counseling, probationary and remedial periods have been performed and documented.

III. All written notifications associated with the formal grievance process shall be by certified mail.

IV. Written notification of non-renewal of contract must occur four (4) months prior to the end of the contract year.

V. PROCEDURE:

Unless otherwise specified, the following procedures are to be used in all Fair – Hearing Procedures.

A. The Chair of the Fair Hearing Board, along with committee will be identified at least three weeks prior to formally convening the Fair Hearing Board. The resident then has 4 business days to formally submit in writing an objection to any of the committee’s participation.

B. At least 5 business days before the hearing date, both the Resident and the Institution shall submit witness lists and documents to be presented at the Fair Hearing – Grievance. These items shall be delivered to the Chair of the Fair Hearing Board.

C. A Resident who fails to appear after proper written notice will be deemed to have waived his / her right to contest the Institution’s decision. If the Resident fails to appear, hearings will proceed.

D. Neither the Resident nor the Institution shall be represented by counsel at the hearing. The Resident and Institution may have an advisor available (which may include counsel) but the advisor may not participate or be present in the proceedings.

E. All persons shall be asked to affirm that their testimony is truthful. Furnishing false information to the Institution may result in formal actions by the Institution.

F. Both the Resident and the Institution shall be offered the opportunity to present their witnesses and to question each other’s witnesses.

G. Prospective witnesses shall be excluded from the Fair- Hearing – Grievance during the testimony of other witnesses. All parties and witnesses shall be excluded during the deliberations of the Fair Hearing Board.

H. The burden of proof shall be on the Resident, who must establish that the Institution’s decision was in error by preponderance of the evidence. Formal rules of evidence shall not be applicable, nor shall harmless or technical procedural errors be grounds for appeal. All evidence reasonable
people would accept in making decisions about the own affairs is admissible. Irrelevant or immaterial evidence will be excluded.

I. Final decision of the Fair Hearing Board shall be by a majority vote of all members of the Board present and voting.

J. Written findings and recommendations of the Fair Hearing Board will be forwarded to Chief Academic Officer (CAO) within 10 working days of the Fair Hearing – Grievance with a copy to the Resident and the GME Administration. At this time the Resident or the Program Director has the right to request a meeting with the CAO to review these issues.

K. The CAO will render his final decision within 10 working days of receipt of the Fair Hearing written findings and recommendations or ten (10) working days after meeting with the parties.

L. The final decision of the CAO shall be reported to the Graduate Medical Education Committee and applicable program director.

SIGNATURES

William W. Pinsky, M.D.
Executive Vice President
Chief Academic Officer

Ronald Amedee, MD
Chairman
Graduation Education Committee