



SUBJECT Academic Appeals Process	POLICY NUMBER 300.001	PAGE 1 of 6
SOURCE Academic Affairs – Administration	ORIGINATION OR LAST REVISION DATE 1/17/2006	EFFECTIVE DATE 6/2006

I. POLICY

It is the policy of the SJHMC Academic Affairs to provide residents with an exclusive, final, binding, speedy, and impartial method for resolving issues related to certain actions taken concerning professional and academic performance. The only actions subject to the Academic Review Policy are those actions that occur as a result of academic non-progression or conduct unbecoming of a physician-in-training.

II. PROFESSIONAL AND ACADEMIC REVIEW

- A. Professional and academic concerns should first be taken up between the resident and his or her immediate supervisor. If the resident's immediate supervisor is involved in the event or issue, the resident may then proceed directly to the next step. It is intended that as many matters as possible be resolved between the resident and the immediate supervisor. Written materials documenting the concerns and resolution should be maintained.
- B. If no satisfactory settlement is reached above, the resident may state in writing the reasons why the matter remains unresolved and what resolution the resident is seeking. The resident shall submit the writing described above to his/her program director. If the program director is the immediate supervisor, the resident may submit the written statement to the Director of Academic Affairs. If the resident does not submit the written statement within ten (10) calendar days after the meeting with their immediate supervisor as described in paragraph (A), the program director or Director of Academic Affairs are not required to respond and no further review rights are available. If the written statement is submitted timely and a response is sought, the person to whom the statement was submitted shall discuss his or her findings with the resident and provide a written response within ten (10) calendar days after the meeting. Both parties shall attempt to resolve the dispute at this step informally.
- C. If no satisfactory resolution is yet reached, then the resident may submit to the Director of Academic Affairs a request for an ad hoc



panel review. In order to proceed, a request must be made in writing within ten (10) business days of the informal discussion described in paragraph (B) above.

1. The Director of Academic Affairs shall organize a hearing of an ad hoc review panel within thirty (30) business days of receiving the resident's request for a review. In order to insure fairness, no member of the ad hoc review panel should have any direct involvement with the circumstances in question. The composition of the ad hoc panel shall consist of the following five individuals, none of which shall be from the department of the resident in question:
 - a. Two faculty members, including one program director. The program director shall act as chairperson of the ad hoc review panel,
 - b. Two residents, one senior resident and one at the same level of training as the resident in question,
 - c. One private attending physician.

2. In addition, to insure fairness at the review, due process afforded to residents during the ad hoc review, shall include the following:
 - a. The right to know the time and place of the ad hoc review as well as the names of the panel members. This shall be provided to the resident in writing.
 - b. The right to be heard in person and present witnesses on behalf of the resident.
 - c. The right to question witnesses.
 - d. The right to a hearing before an impartial body.
 - e. The right to be accompanied by an advisor, who may or may not be an attorney. While the advisor may consult with and advise the resident during the review, the advisor shall not in any way participate in the proceedings.
 - f. The right to a written statement prepared by the hearing body setting forth its recommendation and/or conclusion, its reasons for reaching such recommendation, and the facts relied upon in reaching such recommendation.

3. Procedure at the ad hoc review
 - a. The resident shall present first, including any witness(es) the resident wishes to present.
 - b. The program director follows, again including any witness(es).



- c. Documents to be considered by the review panel must be completed and distributed to the other party and the ad hoc review panel not less than five (5) business days before the review. Such submission shall include a list of witnesses, if any, and a summary of the subject matter about which that witness will testify and the relevance of that witness's testimony to the matter being heard.
- d. The review panel shall deliberate privately and will provide its finding and recommendation within ten (10) business days following completion of the review.

4. Appeal to the Director of Academic Affairs

If the resident does not concur with the recommendations and/or findings of the ad hoc review panel, except in cases of summary dismissal as described in Section IV herein, the resident may appeal in writing within ten (10) business days of receipt of the recommendations of the ad hoc review panel asking the Director of Academic Affairs for reconsideration. The Director of Academic Affairs shall consider the matter and within ten (10) days of the written request of the resident, will respond to the resident in writing. The determination of the Director of Academic Affairs shall be final and binding and no further review or appeal process will be available.

D. Related Matters

1. The burden of persuasion is upon the resident to demonstrate that the action taken was arbitrary and capricious, i.e., not based on any legitimate academic or professional reason.
2. The ad hoc review panel record is confidential and shall not be open to the public, except (a) to the extent both parties agree in writing or (b) as may otherwise be appropriate in response to a governmental or legal process.
3. Legal fees and other costs, if any, shall be born by each side on their own behalf.
4. If requested by either party, a tape recording of the proceeding will be made. There is no requirement or expectation that a court reporter or other method of transcription will be used.



III. EXCLUSIVITY, WAIVER AND BINDING EFFECT

- A. All academic and professional matters shall be subject to the resident's Professional and Academic Review Process described herein except the customary assessment of a residents performance, assessments of the resident's progress in the residency program, and/or assessments of the resident's practice of medicine. Recognizing that residents are students in an academic training program, the resident's Professional and Academic Review Process is final and binding and in no case will there be a right to a trial by jury. Examples of some, but not all, academic and professional matters within the scope of review are attached to this policy as an exhibit.

IV. SUMMARY DISMISSAL

Notwithstanding anything contained in this policy, if the Director of Academic Affairs determines that the continued presence of a resident on campus or in the residency program substantially interferes with the orderly function of the residency program; the hospital; or the safety or welfare of employees or patients; the dismissal shall be effective immediately. However, such dismissals are subject to appeal through the Professional and Academic Review Process. Such dismissal shall be treated as a suspension with pay during the Professional and Academic Review Process. In this circumstance the appeal shall not be to the Director of Academic Affairs, but rather to the hospital's chief operating officer or his or her designee. Upon completion of the Professional and Academic Review Procedure, there shall be no further appeal rights.

**ATTACHMENT AND EXHIBIT TO
RESIDENT'S PROFESSIONAL AND ACADEMIC REVIEW PROCESS**

Examples of Academic and Professional issues coming within the scope of review are as follows:

1. The decision not to advance a resident within his or her program of study;
2. The non-renewal of a resident's contract;
3. A resident becoming subject to a written performance improvement plan;
4. A resident's suspension or dismissal;
5. The determination not to certify a resident to sit for an Accrediting Board; and
6. Any other matter deemed by the Director of Academic Affairs to be of an academic or professional nature.

Descriptors and examples of unprofessionalism include but are not limited to the following:

Unmet professional responsibility

- Needs continual reminders about fulfilling responsibilities to patients and to other health care professionals
- Cannot be relied upon to complete tasks
- Misrepresents or falsifies actions and/or information, for example regarding patients, laboratory tests, research data

Lack of effort toward self-improvement and adaptability

- Is resistant or defensive in accepting criticism
- Remains unaware of own inadequacies
- Resists considering or making changes
- Does not accept responsibility for errors or failure
- Is overly critical/verbally abusive during times of stress
- Demonstrates arrogance

Diminished relationships with patients and families

- Lacks empathy and is often insensitive to patients' needs, feelings and their wishes or to those of the family
- Lacks rapport with patients and families
- Displays inadequate commitment to honoring the wishes and wants of the patient

Diminished relationships with health care professionals

- Demonstrates inability to function within a health care team
- Lacks sensitivity to the needs, feelings and wishes of the health care team

Examples of issues, complaints, and grievances, which do not fall under this policy and should be referred to the “Resident Grievance and Problem Solving Policy and Procedure”

- Call schedules, vacation schedules, work and duty assignments, scheduling changes, environmental work issues
- Routine performance evaluations or evaluation of patient care competencies (unless they result in an adverse action, and then the appealable issue is the adverse action itself).

REVIEWED AND IN COMPLIANCE WITH:	DATE
ACGME	1/17/2006
CHW	1/17/2006
JCAHO	1/17/2006
RISK/LEGAL	1/17/2006
HUMAN RESOURCES	1/17/2006
REVISED	
APPROVED BY	
POLICY/PROCEDURE COMMITTEE	1/17/2006
GMEC COMMITTEE	2/14/2006
HOUSESTAFF LEADERSHIP COUNCIL	6/2006