

### Postgraduate Medical Education (PGME)

Title:	Postgraduate Medical Education Trainees Appeal Policy	Number:	023
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### Definitions

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“Postgraduate trainee” in this policy refers to residents, Area of Focused Competence (AFC) fellows, and Subspecialty Examination Affiliate Program (SEAP) trainees registered with the Royal College of Physicians and Surgeons of BC and holding a postgraduate (fellow) or postgraduate (resident) educational license.

“Appeal Committee” means the committee constituted under this policy to hear Postgraduate Trainees appeals related to dismissals and unsuccessful Final Summative Assessment (FSA) resulting in delays in transitioning to practice or in writing of exams.

“Assessment Policy” means the Residents Assessment Policy, Faculty of Medicine UBC

“Associate Dean” is the Associate Dean of Postgraduate Medical Education of the Faculty of Medicine at the University.

“Final Summative Assessment” or “FSA” is the summative evaluation completed by the Program Director at the completion of the residency program attesting that the Postgraduate Trainee has attained the competencies outlined in the objectives of training required of a physician in practice.

“Formal Remediation” – is a period of more frequent and formal assessments and supervision developed to address situations in which a Postgraduate Trainee is at risk of failing and has been identified as requiring an adjusted Learning Plan to remedy persistent or egregious performance deficits.

“Probation” is a status imposed on a Postgraduate Trainee when the trainee has demonstrated

- a) significant deficits in performance, and/or
- b) conduct of such nature that there can be no tolerance of recurrence and the Postgraduate Trainee requires formal monitoring of performance or conduct for the duration of training.

“Program” means the CFPC or RCPSC accredited postgraduate education training program leading to certification in family medicine or specialty medicine, or AFC diploma, which is sponsored by the University and administered through Postgraduate Medical Education in the Faculty of Medicine.

“Program Director” is the member of the Faculty of Medicine responsible for the overall conduct of a postgraduate training program within a specific discipline and who is responsible to the Associate Dean, Postgraduate Medical Education and the Department Head of the Department.

“Summative Assessment for Exam Eligibility” - is the summative evaluation required by the CFPC or the RCPS attesting that the Resident has attained the competencies required to sit the exam. In some cases, these will be separate from the FSA.

## Policy

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### 1. Appeal

It is the responsibility of the Program Director to notify the resident of the process for appeal.

- 1.1. A Postgraduate Trainee may appeal decisions made by the Program with the Residency Program Committee, AFC Program Committee, or Family Practice Postgraduate Education Committee (PGEC), when a decision has been made to fail a Postgraduate Trainee on a rotation or required training experience.
  - a) The process is as follows:
    - i. The Postgraduate Trainee submits any information they wish the RPC to consider.
    - ii. The RPC reviews all relevant assessment data available.
    - iii. The RPC decides on whether the appeal is to be accepted or denied (with possibility of amending assessments / comments in either case).
    - iv. The decision of the RPC is final after review from the Oversight Committee.
- 1.2. A Postgraduate Trainee may appeal decisions made by the Program to the Postgraduate Associate Dean in the following situations.
  - a) When a decision has been made to dismiss the Postgraduate Trainee
  - b) When a decision has been made that the FSA was unsuccessful and the Postgraduate Trainee will not be eligible to sit their exams in the year expected if they had met all competencies.
  - c) When a decision has been made that the FSA was unsuccessful and the Postgraduate Trainee will not be able to complete training within 6 weeks of the previously anticipated training completion date.
- 1.3. A Postgraduate Trainee must communicate an intention to appeal to the Associate Dean, in writing, within ten (10) calendar days of the notice of dismissal or notice of unsuccessful FSA resulting in ineligibility to write exams or to complete training.
- 1.4. A Postgraduate Trainee may appeal a decision by the PGME Deans to dismiss them from the Program in circumstances where the Postgraduate Trainee has been absent from the Program for medical reasons for at least two years, and the medical information from the Postgraduate Trainee indicate that there is no prospect of a return to training in the foreseeable future, pursuant to the PGME Leave of Absence Policy, or where a Postgraduate Trainee is in receipt of



## Policy and Procedure

Long Term Disability benefits and they have been deemed unable to return to their postgraduate training.

- a) Such appeal must be submitted directly to the Vice Dean, Education for the Faculty of Medicine, instead of the Associate Dean, however the appeal process will otherwise be as set out below.
  - b) The Vice Dean, Education, or their designate, will perform the role of the Associate Dean in such appeals, and the Associate Dean or their designate will represent the Program.
- 1.5. Within ten (10) calendar days of giving notice of intention to appeal the Postgraduate Trainee must submit a written appeal brief ("Appeal Brief") to the Associate Dean. The Appeal Brief must contain the following:
  - a) A copy of the notice of dismissal or notice of the unsuccessful FSA
  - b) A statement of the grounds of appeal and of the substance of the appeal;
  - c) Copies of any documents or materials which support the appeal and which the Postgraduate Trainee wishes the Appeal Committee to consider; and
  - d) The names of any witnesses whom the Postgraduate Trainee intends to call to give information relevant to the appeal to the Appeal Committee.
- 1.6. The Associate Dean will review the Appeal Brief and will determine whether the appeal is based on one of the grounds of appeal set out in this Policy. If the appeal is not based on a ground of appeal set out in this Policy, the Associate Dean may dismiss the appeal without a hearing. There is no appeal of the decision of the Associate Dean to dismiss the appeal without a hearing.
- 1.7. If the Associate Dean determines that the appeal is based on one of the grounds of appeal in this Policy then the Associate Dean will forward the Appeal Brief to the Program Director for response.
- 1.8. Within ten (10) calendar days of receipt of the Appeal Brief the Program Director must submit a written response to the appeal ("Program Brief") to the Associate Dean. The Program Brief must contain the following:
  - a) The Program Director's response to the substance of the appeal;
  - b) Copies of any documents or materials which support the decision taken by the Program Director and which the Program Director wishes the Appeal Committee to consider; and
  - c) The names of any witnesses the Program Director intends to call to give information relevant to the appeal to the Appeal Committee.
- 1.9. The Associate Dean will provide a copy of the Program Brief to the Postgraduate Trainee.
- 1.10. Once the Associate Dean receives the Appeal and Program Briefs the Associate Dean will constitute an Appeal Committee as provided in Section 2 of this policy.

## 2. Composition of the Committee

- 2.1. The Appeal Committee will be composed of the following three individuals:

- a) The Associate Dean, or delegate appointed by the Dean of the Faculty of Medicine, who will chair the Appeals Committee;
- b) Two Program Directors, or faculty with educational expertise if two Program Directors are not available, appointed by the Associate Dean.
  - i. Where possible, the appointment of Program Directors or faculty to the Appeal Committee may include at least one representative from a diverse and/or underrepresented group (i.e. from a racialized or other historically excluded background).

### **3. Grounds for Appeal**

A decision as to whether a Postgraduate Trainee has met the standards of the Program or is suitable for continued postgraduate training is a decision determined through the exercise of academic judgment in the process set out in the Resident Assessment Policy, or any other applicable PGME policy.

3.1. An appeal of a decision to dismiss a Postgraduate Trainee from a Program or the Postgraduate Trainee FSA is deemed unsuccessful resulting in ineligibility to write exams or to complete training may only be brought on the grounds set out below:

- a) The Program failed to follow the procedures set out in the Resident Assessment Policy in reaching the decision to dismiss the Postgraduate Trainee or decision for unsuccessful FSA of the Postgraduate Trainee; or
- b) The decision to dismiss the Postgraduate Trainee or decision for unsuccessful FSA of the Postgraduate Trainee did not take into account relevant evidence or relied on irrelevant evidence; or
- c) The academic judgment of the faculty and/or Program Director was exercised in an arbitrary or discriminatory manner.

3.2. An appeal of a decision to dismiss a Postgraduate Trainee on the basis that they have been absent from the Program for medical reasons and are medically unable to return in the foreseeable future or have been deemed by Long Term Disability to be unable to return to postgraduate training may only be brought on the grounds set out below:

- a) The Program and/or the PGME Deans failed to follow the procedures set out in the PGME Leave of Absence Policy in reaching the decision to dismiss the Postgraduate Trainee; or
- b) The decision to dismiss the Postgraduate Trainee did not take into account relevant evidence or relied on irrelevant evidence.

### **4. Purpose of the Appeal Committee**

4.1. The Appeal Committee may consider any relevant evidence and the Chair may make procedural decisions necessary to ensure a fair and transparent hearing process. The Chair may seek submissions, either written or oral, from the Postgraduate Trainee and the Program before deciding any procedural matter arising either before or during the hearing.



- 4.2. The Chair of the Appeal Committee may seek a legal opinion on any matter arising from the Appeal or Program Brief, or during the hearing, or during the deliberations of the members of the Appeal Committee.

### 5. Procedures for a Hearing Before the Appeal Committee

- 5.1. The hearing of the appeal should be scheduled at the earliest opportunity and no later than 60 days after the briefs have been submitted to the Appeal Committee. The Chair of the Appeal Committee will set a date for the hearing after consulting with the Postgraduate Trainee and the Program Director.
- 5.2. The Postgraduate Trainee may be represented by an advocate during the hearing. If the Postgraduate Trainee intends to be represented by legal counsel, then notice must be given to the Chair of the Appeal Committee at least fourteen (14) days prior to any hearing before the Appeal Committee.
- 5.3. The Postgraduate Trainee, or advocate, presents the case on appeal and the Postgraduate Trainee bears the onus of establishing the grounds of appeal. The Program Director, or a representative who may be legal counsel, will present the case on behalf of the Program.
- 5.4. Subject to the rule of the Chair, the following procedure will be followed in the conduct of the hearing:
- a) The Postgraduate Trainee, or advocate, may make an opening statement;
  - b) The Postgraduate Trainee, or advocate, may call and examine any witnesses named in the Appeal Brief;
  - c) The Program Director, or representative, may cross-examine the Postgraduate Trainee or any witness called by the Postgraduate Trainee;
  - d) The Program Director, or representative, may make an opening statement;
  - e) The Program Director, or representative, may call and examine any witnesses named in the Program Brief and may call and examine any additional witnesses required to respond to the case presented by the Postgraduate Trainee;
  - f) The Postgraduate Trainee, or advocate, may cross-examine the Program Director or any witness called by the Program Director;
  - g) Any member of the Appeal Committee may question any witness, the Program Director, or the Postgraduate Trainee, at any time. Either the Postgraduate Trainee, or advocate, or, the Program Director, or representative, may ask further questions of the witness that arise directly from the questions posed to the witness by the member of the Appeal Committee;
  - h) Once all of the evidence has been presented the Postgraduate Trainee, or advocate, may make a closing statement;
  - i) The Program Director, or representative, may make a closing statement.
- 5.5. Before reaching a decision, the Appeal Committee may request that it be provided with additional information from either the Postgraduate Trainee or Program Director. If such additional information is requested, both the Program Director and the Postgraduate Trainee must have an opportunity to consider this additional information and make submissions in writing or in person, at the discretion of the Chair, to the Appeal Committee prior to a final decision being made.

- 5.6. During the course of the hearing, the Appeal Committee may adjourn and reconvene at the discretion of the Chair.
- 5.7. In the event there is no additional information requested by the Appeal Committee, the hearing will conclude at the end of the closing statements and the Appeal Committee will not accept any further evidence related to the appeal.

## **6. Decision of the Appeal Committee**

- 6.1. The Appeal Committee will arrive at a decision regarding its recommendation on the appeal by a simple majority vote.
- 6.2. In appeals of decisions to dismiss by the Program, if the Appeal Committee finds that there has been a procedural error of sufficient magnitude and they are satisfied that the academic judgment of the Program Director or faculty members may be erroneous, the Appeal Committee may recommend that the Program reinstate the Postgraduate Trainee to post-graduate medical training, and place the Postgraduate Trainee on Probation or Formal Remediation in accordance with the terms of the Resident Assessment Policy.
- 6.3. In appeals of decisions related to FSA, if the Appeal Committee finds that there has been a procedural error of sufficient magnitude that the Appeal Committee is satisfied that the academic judgment of the Program may be erroneous the Appeal Committee may recommend that the Program be directed to provide a successful FSA to the Postgraduate Trainee or to re-issue the FSA addressing the errors in academic judgment.
- 6.4. In either appeal described in section 6.2 and 6.3, if the Appeal Committee finds that there has been a procedural error of a minor nature, but the Appeal Committee is satisfied that the procedural error did not result in an erroneous academic decision, the Appeal Committee may recommend that the appeal be denied
- 6.5. If the Appeal Committee finds there were no procedural errors or omissions the committee may recommend that the appeal be denied.
- 6.6. The recommendations of the Appeal Committee will be provided in writing to the Dean of the Faculty of Medicine within ten (10) days of the conclusion of the hearing. The Dean will consider the recommendation of the Appeal Committee and will render a final decision within ten (10) days of receipt of the Appeal Committee decision. A copy of the Appeal Committee recommendation and the Dean's decision will be provided to the Postgraduate Trainee and the Program Director.
- 6.7. The decision of the Dean of the Faculty of Medicine is final.

### Related Policies and Resources

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[Policy 011 – PGME Leave of Absence Policy \(updated Sept. 2021\)](#)

[Policy 012a – PGME Accommodation for Residents with Disabilities Policy \(updated Sept. 2021\)](#)

[Policy 021 - Postgraduate Medical Education Resident Assessment Policy](#)

Action	Committee	Date	Status
Approved	Postgraduate Medical Education Committee	February 2018	Active
Updated	Updates approved by Postgraduate Medical Education Committee	September 22, 2020	Active
Approved	Policy Working Group	September 21, 2023	Recommended to PGME Exec.
Approved	Updates approved by Postgraduate Medical Education Executive Committee	September 26, 2023	Recommended to PGME Committee
Approved	Updates approved by Postgraduate Medical Education Committee	December 5, 2023	Active