USC Internal Medicine Residency Training Program

Disciplinary Action and Grievance Policy

The USC Department of Medicine follows the procedures set by the LAC+USC Medical Center Graduate Medical Education office for disciplinary action, grievance policy and dismissal of residents. They are as follows:

1. **Purpose and Intent**

   These guidelines state the general practices and policies of LAC+USC Medical Center and the University of Southern California regarding resident discipline. These guidelines are designed to assist the Program Director in determining when and how to impose discipline and to inform residents of the Medical Center’s and Keck School of Medicine’s policies and practices in this area. To the extent feasible and practical, the intent is to have a single policy and procedure for discipline of residents. The purpose of discipline is to ensure the quality of care for patients and resident adherence to acceptable and reasonable standards of performance and conduct. The application of these guidelines requires the consideration of many factors and the use of good judgment. While these guidelines list factors to be considered in discipline matters, they should be used in consultation with the Director of Graduate Medical Education and/or the Office of Human Resources.

2. **Non-disciplinary Action**

   Not all inappropriate behavior will require the imposition of discipline. In some cases non-disciplinary actions such as counseling may be appropriate. The purpose to non-disciplinary action is to inform the resident of a potential problem and to help correct the problem before it becomes significant. Some examples of non-disciplinary actions are: counseling the resident about work and or performance problems before they become significant, i.e., leaving the work area without permission, not answering pages, unexcused absences or re-training to improve performance. Non-disciplinary actions should occur as soon as possible after the unacceptable behavior or poor performance is first noted.

3. **Disciplinary Action**

   A. **Unacceptable Off-the-job conduct**

      Normally, employees cannot be disciplined for misconduct that occurs while off the job.

      Any unacceptable behavior or conduct by residents while off duty in which common sense dictates as unprofessional or which may affect or reflect negatively on the resident’s department, the Medical Center, the Department of Health Services, or the County of Los Angeles, may subject a resident to discipline. Off-the-job conduct may also subject a resident to discipline when it is deleterious to the Civil Service system or County government without being specifically related to a particular job. For example, a resident
who falsifies a resume, or cheats on a Civil Service examination application, is subject to disciplinary action, including termination.

B. Unacceptable On-the-Job Conduct

Unacceptable on-the-job behavior encompasses failure of a resident to perform his/her assigned duties so as to meet stated or implied standards of performance. Unacceptable behavior or conduct may include, but is not limited to, qualitative as well as quantitative elements of performance, such as failure to exercise sound judgement, failure of a resident to follow instructions or to comply with policies and procedures of his/her employer (County and Medical Center or University of Southern California, as the case may be), failure to report information accurately and completely, failure to deal effectively with the public, and failure to make productive use of human, financial and other assigned resources.

C. Progressive Discipline

The paramount concern and overriding consideration in all discipline matters is the potential for harm to patients and quality of care for the patient.

Considerations regarding the circumstances surrounding any misconduct and the likelihood of its recurrence are also relevant. The imposition of discipline should be consistent with the concept of progressive discipline, if appropriate. The degree of discipline imposed must be determined by the specific circumstances of each case. The disciplinary steps from least to most severe are: preliminary warning, final warning, institutional probation and termination. The most severe disciplinary sanction, termination can be imposed upon a single incident, if appropriate. It is not necessary to impose every level of discipline before imposing a given level.

D. Non-Progressive Discipline

Circumstances in some situations may require bypassing progressive discipline.

Conduct, which may not be appropriate for progressive discipline, is conduct that a resident should know to be unacceptable without specific notice from the resident’s employer. This includes behavior such as dishonesty, illegal conduct, or any conduct that places the Medical Center or other facility, to which the training Program Director may assign the resident, in violation of any state, federal law or court order.

The seriousness of the conduct, the frequency of its occurrences, and the attitude of the employee regarding the conduct are among factors that may require non-progressive discipline.
These acts may result in termination without consideration of prior service or imposition of previous discipline.

4. **Multiple Violations**

There are situations in which separate and distinct violations may occur within a single incident. All violations should be considered in determining the appropriate level of discipline to be imposed.

5. **Steps for Discipline**

The imposition of the proper discipline stems from a determination of the facts, an evaluation of whether the facts reflect the employee misconduct, a judgement on the significance of the misconduct and the proper disciplinary action response. The determination of the facts always involves an investigation by the Program Director.

Conducting an investigation may also require management to involve one of the following: the Office of Graduate Medical Education, the Office of Human Resources staff, the Department of Health Services Inspections and Audits Division, the County Department of Auditor-Controller, the County Sheriff’s Department or other local, state or federal law enforcement agencies. Allegations of resident misconduct involving patient care shall be reported to the chief of Staff/Medical Director of the facility where the incident occurred. The Chief of Staff will decide whether the investigation of the alleged misconduct should involve others in addition to the resident’s Program Director.

Please note: Involving anyone else except the Office of Graduate Medical Education and the Office of Human Resources is to be coordinated through the Office of Human Resources.

The extent of the investigation is determined by the nature and seriousness of the allegations, performance problem or misconduct.

An evaluation of the facts shall be done prior to the imposition of any discipline. Any alleged misconduct must be analyzed and investigated. Misconduct may result from violation(s) of Civil Service Rules, County policies, departmental policies, Medical Center policies, state or federal law, local ordinances, court orders, or implied or specified standards of professional behavior.

Disciplining an employee should be an impartial step taken with the intent of correcting the misconduct or poor performance before it becomes more severe or an incorrigible pattern. Discipline should be imposed as soon as possible after the incident or problem occurred.

Finally, the judgment of whether discipline is appropriate should be based upon several factors.

A. Seriousness of the offense, the impact, actual or potential, upon the Medical Center and/or the community;
B. The length of service and overall performance of the resident;
C. The attitude and the culpability of the resident; and
D. Previous discipline and the length of time since imposed.

6. Levels of Discipline

When a Program Director identifies a resident performance problem (academic or other professional performance inclusive of behavioral issues) that could lead to failure to meet acceptable standards by the end of the academic year, the department should give the resident written notification of the deficiencies and to outline a plan of correction.

The following process should be followed in monitoring the competency of any resident. In most, but not every instance, all steps should be used in sequence. The recommendation for immediate removal from the job (summary suspension) should be reserved for issues of gross professional misconduct such as abandonment of patient care, forging prescriptions and similar misdeeds.

A. Preliminary Warning

A written Preliminary Warning is normally issued when an incident and/or deficiency impact upon departmental operation, either academic or nonacademic, or when prior actions have not corrected the pattern of behavior or performance. Examples of problems that may lead to such action include but are not limited to: unexcused absences, deficiencies in medical knowledge and/or clinical judgment, failure to seek help when needed, etc.

The written warning must state that it is a “preliminary warning” letter and contain the following elements:

1. Describe or document the misconduct and its lack of acceptability; The written warning must detail the deficiencies in behavioral, academic and/or clinical performance for or on which the resident failed to meet the acceptable standards and the impact this deficiency had on this performance.
2. Identify previous counseling or discipline;
3. Reference the expectations for future performance or conduct;
4. Identify the disciplinary consequences of repetition, continuation, or lack of improvement.
5. Incorporate the resident’s stated reasons for his or her action; and
6. Request the resident to sign and date the document. This acknowledges only that the resident has received the document. If the resident refuses to sign, the Program Director should request that another management employee be present to witness the refusal of the resident to sign for the document. The Program Director should amend the document to include a notation that the resident refused to sign. The Program Director, and the management representative, should then affix their signature and date to the document directly below the notation.
A resident is entitled to file a written grievance at any step during this process (See Grievance Procedure).

B. Final Warning

A written Final Warning usually is the second phase of progressive discipline. The elements of the letter of Final Warning are the same as the letter of Preliminary Warning.

The written warning must state that it is a letter of “final warning” and contain the following elements:
1. Describe or document the misconduct and its lack of acceptability; The written warning must detail the deficiencies in behavioral, academic and/or clinical performance for or on which the resident failed to meet the acceptable standards and the impact this deficiency had on this performance.
2. Identify previous counseling or discipline;
3. Reference the expectations for future performance or conduct;
4. Identify the disciplinary consequences of repetition, continuation, or lack of improvement.
5. Incorporate the resident’s stated reasons for his or her action; and
6. Request the resident to sign and date the document. This acknowledges only that the resident has received the document. If the resident refuses to sign, the Program Director should request that another management employee be present to witness the refusal of the resident to sign for the document. The Program Director should amend the document to include a notation that the resident refused to sign. The Program Director, and the management representative, should then affix their signature and date to the document directly below the notation. A resident is entitled to file a written grievance at any step during this process (See Grievance Procedure).

C. Institutional Probation

If the resident has not corrected the problems and/or areas of deficiency outlined in written warning(s), then the Residency Program Director may initiate the process of placing the resident on Institutional Probation, however, if the problems are sufficiently severe, this step can be initiated directly per section 3.C-D.

The following elements must be included in the written notice to Resident Physician with regard to Institutional Probation.

1. Specific reason(s) for placing the resident on Institutional Probation (i.e., in what areas specifically is the resident deficient). The written notification must detail the deficiencies in behavioral, academic and/or clinical performance in which the resident failed to meet acceptable or reasonable standards.
2. Specific dates of the probationary period. The duration of the period for performance improvement must be specified and reasonably associated with the deficiency. A probationary period is usually for six (6) months. Under no circumstances can the dates be retroactive (i.e., the beginning of the probationary period cannot be prior to the date the resident receives his/her written notification nor can the probationary period be indefinite or unreasonable.

3. Program of Remedial Action and Education including Academic and/or Behavioral issues. A program of corrective action shall be stated for the resident to follow. The residents should be provided with ongoing written feedback, particularly on continued deficiencies. When necessary, this will include the appointment of one or more faculty to work with the resident on a regular basis, using a planned individualized format. This format may include supervision of history and physical examination, close follow-up and care of certain patients, tutorial sessions, etc. During the probationary period the Program Director or faculty designed to supervise the resident’s remedial training and/or review the resident’s behavioral issues will meet periodically with the resident for counseling. At minimum, such counseling shall occur at least at the mid-point and at the end of the probationary period. These counseling sessions will be to inform the resident of his/her progress in resolving the deficiencies. A written confirmation of these counseling sessions will be given to the resident within five (5) business days after the counseling sessions.

4. Specific expectations the resident must meet to be taken off probationary status and the consequences that will follow if the resident fails to meet these expectations.

5. Request the resident to sign and date the document. If the resident refuse to sign, the Program Director should request that another management Employee be present to witness the refusal of the resident to sign for the document. The Program Director should amend the document to include a notation that the resident refused to sign. The Program Director, and the management representative, should then affix their signature and date to the document directly below the notation.

Prior to giving the resident written notice of Institutional Probation, the Program Director shall submit the letter to the Office of Graduate medical Education for review as to appropriateness of the form of the letter. Copies of the letter notifying the resident of placement on probation and any subsequent written notification of any actions taken regarding the probation must be filed immediately with the Office of GME.

A resident is entitled to file a written grievance at any step during this process (See Grievance Procedure).

D. Termination (Dismissal/Release)

1. Nonacademic Reasons
If a Physician is to be recommended for termination for nonacademic reason, the following procedure must be followed.

a. A recommendation shall be submitted in writing by the Program Director to the Director of Graduate Medical Education.
b. The Director of Graduate Medical Education will review the recommendation along with documentation provided, and if appropriate, submit a written recommendation for termination to the Director of Human Resources, LAC+USC Medical Center and the Chief of the Medical Staff.
c. The Office of Human Resources will review the recommendation along with the documentation provided, and if appropriate, assist the Department Chair in proceeding with the termination (e.g., investigation, writing the termination letter, etc.)
d. The termination letter will specify the reasons for the resident’s release and detail the appeal process available to the resident. The appeal process, known as “liberty interest,” affords the resident the right to respond to this termination action either orally, in writing or both.

A resident is entitled to file a written grievance at any step during this process (See Grievance Procedure).

2. Academic (Professional Knowledge and Clinical Judgment) Reasons

When termination of a resident physician is necessary for academic reasons, the following procedure must be followed.

a. The resident is notified, in writing, that his/her dismissal from the Residency Program is being recommended. This notification must detail the reasons for this recommendation and notify the resident he/she is entitled to a departmental pretermination hearing.
b. A departmental pretermination hearing with the resident must be held and the resident is entitled to have representation at this hearing. However, the Program Director or Department Chair must have five (5) working days advance notice of such intention to be represented. The pretermination hearing will be held with the Training Program Director and/or the Department Chair.
c. If after the pretermination hearing, the recommendation for the resident’s termination remains, a written recommendation is forwarded to the Chief of Staff. A copy of this recommendation is forwarded to the resident notifying him/her this decision may be appealed to the Chief of Staff.
d. The resident may appeal this recommendation by submitting a written appeal letter to the Chief of Staff within ten (10) business days from receipt of the letter recommending dismissal.
e. The Chief of Staff shall appoint a Residency Review Committee to review this recommended action. The Director of Graduate Medical Education, who shall be a nonvoting member, shall chair this Residency Review Committee. The membership shall
consist of (5) persons: three (3) staff members and two (2) senior level residents, none of whom shall be a member of the resident’s department.

f. The resident shall have the right to appear before the Residency Review Committee with representation if so desired. However, the resident must notify the Chief of Staff at least five (5) business days in advance of such intent to be represented.

g. The Residency Review Committee shall submit a written report of its findings and recommendations to the Chief of Staff within fifteen (15) business days from the hearing date.

h. The Chief of Staff’s decision shall be rendered, in writing, to the resident, within ten (10) business days of receipt of the Residency Review Committee’s recommendations.

i. If the Chief of Staff sustains the resident’s dismissal from the Residency program, the Chief of Staff will notify, in writing, the Office of Human Resources to proceed with the termination of the resident.

j. The Office of Human Resources will review the documentation provided, and, if appropriate, write a termination letter notifying the resident that he/she is being dismissed from County service.

k. The termination letter will specify the reasons for the resident’s release from County service and detail the appeal process available to the resident. The appeal process, known as “liberty interest” gives the resident the right to respond to this termination action either orally in writing, or both.

Please note: The resident may not be taken off duty until the effective date of termination detailed in the termination letter.

A resident is entitled to file a written grievance at any step during this process (See grievance Procedure).

Management’s Role

Before any potential disciplinary action is considered, the following points should be followed:

1. Investigate and consider all sources of relevant information (facts, not opinions);
2. Verify information;
3. Consult with all applicable parties.
4. Analyze the facts thoroughly and objectively;
5. Summarize the matter in writing;
6. Determine if the level of discipline is appropriate; and
7. Consider other factors, such as the liability or potential liability incurred by the Medical Center or County, the jeopardy to public safety, and the harm or risk of harm to persons or property.
If, at the time a disciplinary action is being contemplated, the department is uncertain regarding the appropriate action to take, or if a resident is uncertain regarding his/her due process rights, either party should contact the Office of Graduate Medical Education for assistance. Residents may also wish to contact the JCIR.

**Grievance Procedure**

The resident may appeal all actions through formal grievance procedures. The resident may obtain grievance forms from the Office of Graduate Medical Education, the Office of Human Resources or JCIR and initiate such procedures.

To be considered timely, the resident must file a grievance with the Program Director and send a copy to the Office of Human Resources within ten (10) business days from receipt of the document/action being grieved. If the grievance is filed in an untimely manner (i.e. exceeds ten business days,) the Program Director and the Office of Human Resources are not required to accept it.

However, if the grievance is filed timely and denied, the resident may file the grievance at the second level with the Department Chair. If the second level grievance is filed timely and denied, the resident may file the grievance at the third level at the Medical Center Office of Human Resources.

**It is imperative that Management responses to grievances at all levels be given within the ten (10) business day time frame, even if the grievance is denied, due to the requirements of the JCIR MOU. Failure to respond or failure to respond in a timely manner at any level automatically results in the granting of the grievance.**