

## **DUE PROCESS & GRIEVANCE PROCEDURES AND REMEDIATION CONSIDERATIONS**

### **Initial Procedures Subsequent to Not at Expected Competence or "Inadequate" Rating**

If a trainee receives a rating of 1 (Not at Expected Competence) or "inadequate" on any item in the evaluation (professional competence, professional standards, personal and interpersonal functioning), the Primary Supervisor will notify the Associate Director for Training and with their approval will then notify in writing the trainee of the basis and rationale for the rating and provide the trainee the opportunity to respond formally to the rating. (If the Associate Director for Training does not approve of the evaluation by the Primary Supervisor, it may be modified or referred to the Director of the Center, or a change in supervision may be implemented.) If the evaluation is approved by the Associate Director for Training or the Director of the Center, the Training Committee will then review the rating, its rationale and any response to it from the trainee, to determine what action needs to be taken to address the concern.

The Committee may choose to issue an "Acknowledgment Notice." The notice will formally recognize that the Committee is aware of and concerned with the rating, that the trainee has been formally notified of it, that the relevant training staff will work with the trainee to rectify the problem, and that the behaviors associated with the rating are not considered significant enough at that point to warrant more serious action.

Alternatively, in more serious instances, the Committee may issue a "Probation Notice." With it, the Committee then establishes a process for a set period of time in which the Committee will systematically monitor through the trainee's supervisors the trainee's efforts to address and improve the identified concern. The probation statement should include the specific behaviors associated with the inadequate rating, the Committee's recommendations for rectifying the problem, the time frame for the probation during which the problem is expected to be ameliorated, and the procedures designed to ascertain whether the problem has been appropriately rectified. The Associate Director for Training or their designee will meet with the trainee to review the probationary conditions and the trainee may then accept the conditions or appeal the action.

The trainee's Academic Program may be informed if an Acknowledgment Notice is issued, and it will be informed when a Probation Notice is issued. Notification will indicate the nature of the inadequate rating, its rationale and the action taken by the Training Committee, and it will be issued to the Academic Director of Training. The trainee shall receive a copy of communications with the Academic Program. Once an Acknowledgment or Probation Notice is issued, it is expected that the status of the rating will be reviewed no later than the next formal evaluation period or, in the case of probation, no later than the time limits identified in the probation statement. If the concerns have been rectified to the satisfaction of the Committee, the trainee and the Academic Program and other individuals as appropriate will be informed, and no

further action will be taken.

### **Situations in Which Review Panels are Initiated**

Review Panels can be initiated by an appeal for the grievance process by the trainee of the action taken by the Training Committee, by a decision of the Committee when it is not satisfied with the trainee's response to its action, or by the complaint of a member of the Counseling Center staff about a trainee.

#### **1) Trainee Appeal.**

If the trainee appeals the action taken by the Committee as described, they must inform the Associate Director for Training in writing within one week of the receipt of notification of the action. A Review Panel will then be convened, consisting of the Associate Director for Training as chair, two members of the Training Committee selected by the Associate Director for Training, and two members selected by the trainee if so decided. A review hearing will be conducted in which the appeal is heard and the evidence presented. The trainee retains the right to be present and hear all facts with the opportunity to dispute or explain their behavior, prior to discussion by the Review Panel. Decisions by the Panel will be made by majority vote. Within one week of the completion of the review hearing, the Panel will submit a report in writing to the Director of the Counseling Center, with a copy to the trainee, including its findings and, if available, its proposed resolution, as well as recommendations for further action.

Within one week of receipt of the Panel's report, the Director of the Counseling Center will accept the Review Panel's action, reject it and provide an alternative, or refer the matter back to the Review Panel for further deliberation. In the latter instance, the Panel would then report the results of its further deliberation back to the Center Director within one week of the receipt of the Director's request for further deliberation. The Director then will make a final decision regarding what action is to be taken. When the final decision has been reached, the trainee, the Academic Program and other appropriate individuals are informed in writing.

#### **2) Committee Call for Review Panel**

If the Training Committee determines that there has not been sufficient improvement in the trainee's behavior to remove the inadequate rating under the conditions stipulated in the probation, then a Review Panel will be convened to determine further action. The Panel will communicate in writing to the trainee and the Director of the Center that the conditions for lifting the probation have not been met. The Panel may then issue: a) a continuation of the probation for a further specified time period; b) a suspension whereby the trainee is prohibited from engaging in stated professional activities until there is evidence that the behavior in question has improved; or c) recommendation to the Director of the Counseling Center that the trainee be terminated from the program.

Within one week of the receipt of the Panel's determination, the trainee may respond by either accepting or appealing the action. If an appeal is made, the trainee must

provide is writing within one week the reasons why the trainee maintains the action is unwarranted. A lack of response by the trainee will be interpreted as accepting the action. If the trainee appeals the Panel's action, the procedures outlined in the preceding section will be implemented.

### **3) Complaint by Staff Member**

A staff member of the Center may submit to the Associate Director for Training in writing a complaint against a trainee for violation of ethical or legal standards, serious professional incompetence or negligence, or major infringement on the rights of others. The Associate Director for Training will notify the trainee of the allegation and with the Primary Supervisor and the Clinical Director will comprise a subcommittee, unless one of them is the individual filing the grievance. If so, a different staff person will be appointed to the subcommittee. The subcommittee will review the complaint to determine if there is reason to proceed with an investigation or whether the behavior in question is in the process of being rectified and without major negative consequence.

If the subcommittee determines that the alleged behavior would not constitute a serious violation even if it is substantiated, the Associate Director for Training shall inform the trainee and the staff member, who may be allowed to renew the complaint if additional information is provided. When a decision has been made by the subcommittee that there is probable cause for deliberation by a Review Panel, the procedures outlined in Section 1 above will be implemented.

### **REMEDICATION CONSIDERATIONS**

It is important to establish appropriate means to address a condition of inadequate performance once it has been identified. Major courses of potential action include but are not limited to:

- 1) increasing supervision either with the same supervisor or with other supervisory arrangements;
- 2) changing the format, emphasis, and/or focus of supervision;
- 3) recommending personal therapy with consent by the trainee;
- 4) modifying the trainee's clinical or other workload;
- 5) requiring specific academic course work or other formal training; and/or
- 6) recommending, when appropriate, a leave of absence, a second internship, and/or termination without fault from the training program.

Each of the foregoing steps should be documented in detail according to the specific requirements of a given situation, with copies provided to the trainee, the Academic Program when appropriate, and the Associate Director for Training and the Director of the Center. Consultation with the Office of the University Counsel at any point in the review process may also be sought by the Associate Director for Training with the concurrence of the Director of the Center.

When the above interventions do not, after a reasonable time period, rectify the inadequate performance, or when the trainee seems unable or unwilling to alter their

behavior, the training program may need to take more formal action. The trainee may be given a limited endorsement, including the specification of those settings or roles in which they could function adequately. The trainee and the Academic Program may be notified that they have been dropped with fault from the training program after failing to successfully complete it. A career shift may be recommended and facilitated if possible for the trainee. In all actions taken, it is important that the steps are appropriately implemented, documented and communicated according to the preceding due process procedures.