

Policy Title:
Due Process Policy and Procedure

Background:

The Due Process Policy and Procedure of the University of New Mexico School of Medicine MD Program outlines the course of action that can be taken if it is alleged or suspected that a student has failed to maintain academic, ethical, or professional standards. Academic requirements, as noted in the UNM School of Medicine MD Program MD Program Policy and Procedure on Student Promotion and Awarding of the MD Degree, include “ethical and professional behaviors” as well as educational achievement.

The Liaison Committee for Medical Education (LCME), the accrediting agency for medical schools, requires that each medical school develop and uphold the Technical Standards for the admission, retention, and graduation of medical students. The UNM SOM’s Technical Standard for Behavioral and Social Attributes states, *“Students must possess the emotional health and the self-discipline required for full use of their intellectual abilities, the exercise of good judgment, and the timely and safe completion of all tasks and responsibilities. They must be able to adapt to rapid change, to display flexibility, and learn to function in the face of stressful situations and uncertainties. Students must consistently demonstrate honesty, integrity, altruism, empathy, and concern for patients, their families, colleagues, members of the healthcare team, and the community at large.”* The UNM SOM MD Program has a responsibility to our students to give them the appropriate resources necessary to succeed. We also have a responsibility to society to ensure that the students we graduate are worthy of the public trust.

Policy:

I. Definitions: Adverse, Corrective and Emergency Actions

The Committee on Student Promotion and Evaluation (“CSPE” or “Committee”) monitors student progress in the curriculum and ensures adherence to the UNM SOM MD Program Policy and Procedure on Promotion and Awarding of the MD Degree. The Committee may impose adverse, corrective, and emergency actions in response to deficiencies in performance.

The distinction between an adverse action and a corrective action is significant. Generally, adverse actions are taken for more serious academic or professional concerns. Adverse actions include, but are not limited to, dismissal from the UNM SOM MD Program, suspension from the UNM SOM MD Program, and repetition of all or part of the curriculum. These adverse actions are described in Section II. A corrective action involves the imposition of an educational prescription that, in the opinion of CSPE, is necessary in order to improve the student’s performance and/or demonstrate that the student meets the requirements necessary to care for patients. Detailed information about corrective actions can also be found in Section II.

Adverse actions are subject to appeal by the student as provided for in Sections V through VIII of this policy. Corrective actions cannot be similarly appealed by the student but may be reviewed at the student’s request as provided for under Section IX of this policy.

Emergency actions are described in Section III of this policy. A student may be immediately suspended on an emergency basis if the student's behavior is deemed to be threatening to self or others or is sufficiently disruptive. An emergency suspension can lead to CSPE imposing a temporary enforced leave of absence of no longer than 45 calendar days.

II. Imposition of Adverse or Corrective Action by CSPE

Consideration of an adverse or corrective action may be initiated by CSPE through their monitoring of student progress. Adverse or corrective action may also be initiated when allegations regarding a student's conduct come from another student or a faculty member. Informal attempts will be taken to resolve the perceived or alleged problem, and these steps will be documented. The student will be provided with written notification of the alleged performance issues that have been identified by faculty and/or CSPE.

Prior to taking final corrective or adverse action, CSPE will review all available information. The student will be given the opportunity to meet with CSPE to give her/his input and will have an opportunity to review any evidence being considered by CSPE. For alleged professionalism issues, the Committee may choose to convene an *ad hoc* sub-committee to conduct the evaluation of the issue and make a report to CSPE. The student may be required to meet with the *ad hoc* committee to give further information. Based on its review, CSPE will decide whether or not a violation of the UNM SOM policies and/or procedures occurred. If such a violation did occur, CSPE will decide whether to impose a corrective or adverse action by a simple majority of a quorum of members. (Two-thirds of voting members is considered quorum for voting on adverse or corrective actions.)

The adverse actions that CSPE may impose are described in more detail below. The Committee has the right, on a case-by-case basis, to design other adverse or corrective actions as it deems necessary.

Adverse actions include the following:

Suspension: A student may be required to take a longer enforced leave of absence greater than 45 calendar days, prior to returning to educational activities. The Committee will specify the period of time during which the student must remain suspended. A contract will be required to return.

Repetition of an entire phase: A student may be required to repeat an entire phase of the curriculum. Difficulty in achieving or sustaining academic standards – including professionalism standards – may lead to the vote for repetition of a phase.

Dismissal from medical school: Failure to meet academic, ethical, or professional standards as set forth in the Policy and Procedure on Student Promotion and Awarding the MD Degree may constitute grounds for termination from the UNM SOM. The student will be informed in writing of the decision for termination with the specific reasons for dismissal.

Corrective actions include the following:

Corrective actions include, but are not limited to, prescribed course requirements; academic, professionalism, or communication remediation programs; assigned academic or personal advisement; and required medical or psychological evaluations as described below. To ensure the student receives the appropriate supervision and feedback, a corrective action may require the student to take a specified course, and/or may limit the student to only UNM SOM MD Program Phase III Course Catalog selections. The student might be assigned an academic

advisor with whom the student is required to meet for remediation in communication skills, professionalism, and/or academic skills. A corrective action requiring the student to undergo a fitness-for-duty evaluation by an independent forensic psychologist or psychiatrist and/or requiring the student to undergo an evaluation for substance abuse may be imposed for concerns about the student's professional conduct. The recommendations from the fitness-for-duty evaluation and/or the substance abuse evaluation will be reviewed by CSPE and may be implemented as a corrective action as well. These recommendations may include a requirement for random drug use monitoring. Students may be required to abide by a contract in which the student agrees to take certain actions in order to continue in the MD curriculum.

Within 15 calendar days of the CSPE meeting at which CSPE votes to take an adverse or corrective action, the student will be notified of the action via their UNM SOM email address from the Chair of CSPE.

The student may appeal CSPE's decision to take adverse action as described in Sections IV-VII. For corrective actions, the student may seek review of CSPE's decision to take corrective action pursuant to Section IX herein. Pending final resolution of an appeal or a corrective action review, CSPE's decision may take effect in the interim if CSPE so decides. In concluding whether its decision will take effect immediately, CSPE will consider the seriousness of the student's violation, the nature of the adverse or corrective action, and whether the student poses any danger to him/herself or others. Additionally, CSPE decisions regarding exceptions to the Policy and Procedure on Student Promotion and Awarding the MD Degree will take effect while the student pursues an appeal.

III. Imposition of Emergency Actions

Emergency Suspension: The UNM SOM Associate Dean of Medical Student Affairs (or designee) may immediately suspend a student on an emergency basis if, based on information received about the student's conduct, the UNM SOM Associate Dean of Medical Student Affairs (or designee) finds that the student's behavior may endanger him/herself/theirself or others (including patients) or threatens disruption of the learning environment. Generally, an emergency suspension may be imposed only in response to an acute incident or a pattern of student conduct that raises significant question as to the student's ability to function safely and effectively in classroom and/or clinical settings.

A student who has been placed on emergency suspension may request that the UNM SOM Associate Dean of Medical Student Affairs or designee who issued the suspension, meet as soon as possible (no later than five working days) after the request. At this meeting, the student will have the opportunity to explain his/her/thier position and request that the suspension be lifted or modified. The student may offer evidence for the UNM SOM Associate Dean of Medical Student Affairs (or designee's) consideration. If, after meeting with the student, the UNM SOM Associate Dean of Medical Student Affairs (or designee) finds that the student's continued presence in the UNM SOM MD Program curriculum may endanger himself/herself/theirself or others, or threatens disruption of the learning environment, the UNM SOM Associate Dean of Medical Student Affairs (or designee) will continue the suspension. Otherwise, the suspension must be lifted or appropriately modified, as determined by the UNM SOM Associate Dean of Medical Student Affairs (or designee). The UNM SOM Associate Dean of Medical Student Affairs (or designee) will inform the student of the decision within five working days after this meeting. A decision to continue an emergency suspension is not subject to appeal or review under this Due Process Policy and Procedure. If the emergency suspension is continued, the matter shall be referred to CSPE for full investigation, review, and if necessary, consideration of further action consistent

with this Due Process Policy and Procedure. CSPE will meet as soon as possible (within two weeks) to consider the referral.

If the UNM SOM Associate Dean of Medical Student Affairs (or designee) lifts the emergency suspension, the student will be permitted to return to the curriculum immediately. The matter may also be referred to CSPE for further review.

Temporary Enforced Leave of Absence: A student may be required by CSPE or the UNM SOM Associate Dean of Medical Student Affairs (or designee) to take a temporary enforced leave of absence from further educational activities pending a final determination regarding the student's status. Examples of events that might lead to a temporary enforced leave of absence include, but are not limited to, unexcused absence(s) from educational activities; substance abuse; unprofessional behavior or behavior that disrupts the learning environment for other students; situations in which the student may be a danger to himself, other students, faculty, or patients; and violation of a previously agreed upon contract. In the event that CSPE or the UNM SOM Associate Dean of Medical Student Affairs (or designee) issues a temporary enforced leave of absence, the student shall receive written notice that he/she/they may not participate in any further classes or rotations until a final determination is made. A temporary enforced leave of absence may last no longer than 45 calendar days. Within this period, CSPE must make a decision regarding further action. A student can request review of a temporary enforced leave of absence by the UNM SOM Senior Associate Dean of Education pursuant to Section IX of this policy.

IV. Appeal of CSPE Decision Imposing Adverse Action

A student who disagrees with CSPE's decision to impose adverse action is entitled to appeal that decision to the Student Appeals Committee. The request for an appeal must be made in writing to the UNM SOM Associate Dean of Medical Student Affairs, stating the reasons why the student disagrees with CSPE's decision, and must be received by the UNM SOM Associate Dean of Medical Student Affairs within 15 calendar days after the student receives CSPE's letter imposing an adverse action. Should the student fail to notify the UNM SOM Associate Dean of Medical Student Affairs in writing of his/her/their appeal within 15 calendar days, this shall be considered a waiver of his/her/their right to an appeal and CSPE's decision shall become final for the UNM SOM.

V. Formation of the Student Appeals Committee

When a request for an appeal is made by a student, the UNM SOM Associate Dean of Medical Student Affairs will form a Student Appeals Committee (SAC) ordinarily consisting of four faculty members from the Faculty Review Committee (FRC) and one student in good academic standing from a different class than the student who is bringing the appeal.

The FRC will consist of active faculty members who are not members of either CSPE or the Curriculum Committee. Department Chairs will recommend potential members and the Dean of the UNM SOM (or designee) will appoint faculty for a three-year term. Members may serve one additional three-year renewal term. Appointments will be staggered to ensure new, as well as experienced, members on the committee at all times. Members will receive an orientation to the FRC that will include a review of the UNM SOM Policy and Procedure on Student Promotion and Awarding of the MD Degree and this Due Process Policy and Procedure.

The UNM SOM Associate Dean of Medical Student Affairs or their designee will review the composition of the SAC with the student making the appeal. If the student objects to any member of the SAC, the UNM SOM Associate Dean of Medical Student Affairs will review the student's objections and decide whether to remove the member. The UNM Associate Dean of Medical Student Affairs' decision is final. If a SAC member is removed for cause, the UNM Associate Dean of Medical Student Affairs will appoint a new member if one is available from the FRC. If a new member is not available, the SAC will proceed to hear the appeal with three faculty members and one student member. The SAC will select one of its faculty members to serve as SAC Chair.

VI. Review of Appeal by the Student Appeals Committee

The SAC will accept relevant documentary evidence from the student and CSPE for review, with each party (each Committee member, the student, and the Chair of CSPE) being provided an electronic copy (by secure email) of all submitted documents. The SAC will conduct individual interviews with the student, member(s) of CSPE, and others with relevant information. These interviews will be recorded and the student will be offered the option of listening to the recording. The student will not attend the actual interviews. After the SAC concludes its interviews, the student will be offered another opportunity to meet with the SAC to answer additional questions and to respond as the student elects to any statements from any of the witnesses. Timeframes may vary. All parties are expected to carry this process out as quickly and reasonably as possible. The student will be kept informed throughout the process by the Student Success Manager / Registrar in the Office of Medical Student Affairs, aka OMSA.

After all interviews have been completed, including the final interview with the student, the SAC will conduct its deliberations in closed session. Within 30 calendar days of the completion of the interviews, the SAC will make its decision by a simple majority vote of all members. The final decision will be to uphold or overrule the decision of CSPE. The SAC will provide the rationale for its decision in a written report.

If the SAC overrules CSPE, the responsibility to reintegrate the student back into the curriculum returns to CSPE. The student will be given a copy of the SAC's written report and decision via the student's UNM SOM email account, by certified mail, and/or personal delivery within 10 calendar days of the report's completion. The student will draft a proposal for reintegration into the curriculum and submit to CSPE. Within 30 calendar days (excluding UNM holidays), CSPE will review the student's proposal before the meeting, and will meet and interview the student at the meeting. CSPE may approve the student's request or may create their own reintegration plan that may require a corrective action before or simultaneous to the student's return to the curriculum. The final reintegration plan will be determined at this CSPE meeting. A Phase I student would return to the curriculum at the beginning of the next academic year. A Phase II or III student may return during the middle of an academic year, starting in the next available clerkship start date, once the student has met all requirements to re-enter the curriculum, including, but not limited to, passing USMLE Step 1; undergoing and passing a fitness-for-duty evaluation, if required; enrolling in a monitored treatment program; and/or enrolling in remediation for academic, professionalism, or communication issues. The student may request a review of CSPE's reintegration plan by the UNM SOM Senior Associate Dean for Education as described in Section IX below.

VII. Appeal of Student Appeals Committee Decision to the Dean

If the SAC upholds CSPE's decision, the student may appeal to the Dean of the School of Medicine (or designee), in writing within 30 calendar days of receipt of the Student Appeals

Committee's decision. Should the student fail to notify the Dean (or designee) in writing of his/her appeal within 30 calendar days, the student has waived his/her/their right to appeal to the Dean (or designee) and the decision of the Student Appeals Committee shall be final for the UNM SOM.

The Dean (or designee) will review the student's academic record, the decisions of CSPE and the Student Appeals Committee, and any other documents in the student's appeal file. Additionally, the Dean (or designee) may meet with the student. The Dean (or designee) shall issue a written decision on the appeal and send a copy to the student and the Associate Dean of Medical Student Affairs. If the adverse action is overturned by the Dean, the student is remanded back to CSPE. A reintegration plan is created by the student and reviewed and approved or modified by CSPE as described in Section VI above.

VIII. Appeal to the Executive Vice President, UNM Health Sciences

If the adverse action is upheld by the Dean, the student may appeal the decision of the Dean of the School of Medicine to the Executive Vice President of Health Sciences, or his / her/ their designee, by providing a written appeal within 15 calendar days of the receipt of the Dean's decision. Failure to submit a timely appeal means that the student waives his/her right to appeal the decision and the decision of the Dean shall be the final.

The Executive Vice President (or designee) will review the student's academic record, the decisions of CSPE, the Student Appeals Committee, the Dean, and any other documents in the student's program file. Additionally, the Executive Vice President (or designee) may meet with the student and the Associate Dean of Medical Student Affairs. The Executive Vice President shall issue a written decision on the appeal and send a copy to the student and the Associate Dean of Medical Student Affairs. If the adverse action is overturned by the Executive Vice President, the student is remanded back to CSPE, and a reintegration plan is created by the student and reviewed and approved or modified by CSPE as described in Section VI above.

If the adverse action is upheld by the Executive Vice President, discretionary review by the UNM President, as provided in the UNM Student Grievance Procedure, is accorded to students in academic programs in UNM Health Sciences. The President will normally accept review only in extraordinary cases, such as where proper procedures have apparently not been followed, where the decision appears to be unsupported by the facts, or where the decision appears to violate University policy.

IX. Review of Corrective Action, Request for Exception to the UNM SOM Promotions and Awarding the MD Degree Policy, and Temporary Enforced Leaves of Absences

As stated in Sections II and III, a student is not entitled to go through the appeals process set forth in Sections IV through VIII to dispute the imposition of corrective action or a temporary enforced leave of absence. A student is also not entitled to the appeals process when he/she/they requests an exception to the UNM SOM Promotions and Awarding MD Degree Policy from CSPE and CSPE denies this request and does not impose an adverse action.

If the student believes that the decision imposing corrective action, denial of exception to the UNM SOM Promotions and Awarding the MD Degree Policy, or a temporary enforced leave of absence is fundamentally flawed, unfair, or otherwise inappropriate, the student can request review by the UNM SOM Senior Associate Dean for Education (or designee). The student shall present their request for a review and their reasons for disputing the action in writing. The UNM SOM Senior Associate Dean of Education (or designee) may meet with the student and may

discuss the matter with members of CSPE and other faculty, as the UNM SOM Senior Associate Dean (or designee) deems appropriate. Section 2.2 of the UNM Faculty Handbook Policy D176 policy states that, "it is recognized that HSC academic programs may have adopted policies and procedures that govern the adjudication of student conduct and student grievance matters. Such policies and procedures supersede this Policy." However, this decision by the UNM SOM Senior Associate Dean may be appealed to the University President, under procedures adopted by the Office of the President. Appeals to the University President must be submitted with ten (10) working days of the decision.

X. General Provisions

Minor deviations from these procedures are permitted as long as they do not amount to a denial of due process for the student.

For good cause, the time limits for committee decisions to be made can be extended. Good cause includes the fact that a deadline falls during school holidays, vacations, or summer session if parties or decision-makers are absent from the UNM SOM. Any such time extension will be communicated in writing to all interested parties and the decision will be made thereafter as expeditiously as possible.

The University of New Mexico School of Medicine reserves the right to make changes to this Due Process Policy and Procedure as it deems necessary, with the changes applicable to all students in attendance at the UNM SOM.

Responsible Office:	UNM SOM Office of Medical Student Affairs,
Approving Bodies:	Committee on Student Promotion & Evaluation (approved 8/13/24) Curriculum Committee (approved 7/17/24)
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