



Misconduct Policy

Residents who participate in accredited residency programs sponsored or administered by Erie County Medical Center (ECMC) must adhere to the highest standards of professional conduct, as detailed in the [ECMC Physician and Resident Handbook](#). Residents who fail to adhere to these standards, or who otherwise demonstrate misconduct, are subject to the actions described in this policy.

General Statements

1. Suspension and Immediate Dismissal are actions that may be taken in response to reports of resident Misconduct, as defined below. Collectively, Suspension and Immediate Dismissal are referred to as Misconduct Actions throughout this policy. Administrative leave is an administratively required absence from duty without loss of pay or accrued benefit time, pending an investigation. Administrative leave is not a Misconduct Action.
2. Misconduct includes behavior that the resident knew or should have known was wrong, or noncompliance with ECMC Physician and Resident Handbook.
3. Misconduct Actions and placement on Administrative Leave are taken by the Program Director. In certain circumstances, the Program Director may consult with Program faculty, CMOs and/or other hospital representatives prior to taking a Misconduct Action or placing a resident/fellow on Administrative Leave.
 - a. The Chief Medical Officer (CMO) must authorize all Misconduct Actions prior to implementation.
 - b. The CMO must be consulted prior to placing a resident on Administrative Leave.
4. Prior to any Misconduct Actions or placement on Administrative Leave, the Program Director should, if possible, meet with the person complaining of the misconduct and with the resident

5. Residents must be notified in writing of Misconduct Actions or being placed on Administrative Leave as soon as practicable, using the delivery method(s) that the Program Director believes are most likely to be received by the resident/fellow (e.g., hand delivery; certified mail, return receipt requested; or electronic mail, read receipt requested). Written notifications must be prepared in consultation with the CMO. The written notice should also be reviewed with the resident in person when practicable.

a. Written notice of Misconduct Actions must include: the reason(s) for the action; the effect on length of training and board eligibility (where applicable); and a statement that the resident has the right to right to request a review under the ECMC Academic Action and Misconduct Review Policy.

b. Written notice of Administrative Leave must include: the reason(s) for the leave; a statement that Administrative Leave is for a maximum of two weeks, unless a further extension is authorized by the CMO; and the effect on length of training and board eligibility (where applicable).

c. Copies of Misconduct Actions must be maintained in the resident's Program file, with an additional copy provided to the CMO's office within two business days.

Actions in Response to Reports of Misconduct

The Program Director, with the approval of the CMO, has the discretion to determine whether Administrative Leave, Suspension, or Immediate Dismissal is appropriate. Neither Administrative Leave, Suspension nor Immediate Dismissal requires providing the resident with prior notice or an opportunity to remediate.

Administrative Leave:

Administrative Leave may be imposed by a Program Director in consultation with the CMO when there are allegations which, if true, could result in a Misconduct Action (see below), but an investigation is required before Misconduct Action is taken.

An investigation into the resident's conduct may be conducted by the Program Director, and/or appropriate hospital personnel during and following Administrative Leave and, based on the findings of the investigation, may result in: reinstatement to the Program without further action; reinstatement to the Program with a verbal or written warning; reinstatement with reclassification and further action under the ECMC Academic Action Policy; suspension; or immediate dismissal, as the circumstances warrant.

Administrative Leave will be for a maximum of two weeks unless further extensions are authorized by the CMO.

Nothing in this policy prevents a resident from being subject to Misconduct Action based on the same allegations which initially led to the Administrative Leave, solely because the resident has been placed on Administrative Leave.

A resident who has returned from Administrative Leave without immediate Misconduct Action may still be subject to Misconduct Action based on the same allegations which initially led to the Administrative Leave.

Suspension:

Suspension is imposed by a Program Director after obtaining authorization from the CMO when the resident's conduct is serious enough to warrant the immediate, temporary removal of the resident from the Program.

Suspension may be considered, among other things, for misconduct or noncompliance with the ECMC Physician and Resident Handbook. A hospital Chief Medical Officer (CMO) or designee may also initiate a hospital/health system-specific suspension for violation of hospital/ health system by-laws, rules, or regulations.

An investigation into the resident's conduct may be conducted by the Program Director, and/or appropriate hospital personnel following suspension and, based on the findings of the investigation, may result in: reinstatement to the Program with a verbal or written warning; reinstatement to the Program without further action; reinstatement with reclassification and further action under the ECMC Academic Action Policy; or immediate dismissal, as the circumstances warrant.

Immediate Dismissal:

Immediate dismissal may be considered as an alternative to suspension for Misconduct.

Review of Misconduct Actions:

Residents are entitled to review of Misconduct Actions as described in the ECMC Academic Action and Misconduct Due Process Policy.