SECTION 1 - DEFINITIONS

House Staff or House Officer – refers to all interns, residents and fellows participating in a program of graduate medical education.

Graduate Medical Education Training Program – refers to a residency or fellowship educational program.

Grievance – a cause of distress (such as an unsatisfactory working condition) felt to afford reason for complaint or resistance.

Misconduct – Improper behavior; Intentional wrongdoing; Violation of a law, standard of practice, or policy of the program, department, or Hospital. Misconduct may also constitute unprofessional behavior, which may trigger action under the Academic Improvement Section. In such case, the misconduct procedures should be followed.

SECTION 2 — SCOPE

This policy applies to all Graduate Medical Education (“GME”) Training Programs at the Hospital.

SECTION 3 — ACADEMIC IMPROVEMENT

I. Purpose

To establish a process for all programs at NYU Winthrop Hospital to use in the normal process of evaluating and assessing competence and progress of House Staff enrolled in programs of GME. Specifically, this Section will address the process to be utilized when a House Staff member is not meeting the academic expectations of a program, and therefore, fails to progress. The procedure for addressing potential misconduct is discussed in the Misconduct Section below.

II. Process

A. Structured Feedback: All House Staff should be provided routine feedback that is consistent with the educational program. Feedback techniques include verbal feedback, rotational evaluations and summative evaluations. Each residency program must have a Clinical Competency Committee (“CCC”) that is charged with routinely assessing House Staff performance.
B. “Letter of Deficiency”: When a House Officer has been identified as having a deficiency, it is expected that s/he will receive routine structured feedback in order to identify and correct the issue. When the Program Director/CCC deems that routine structured feedback is not effecting the necessary improvement, or if the Program Director/CCC determines that the deficiency is significant enough to warrant something more than routine feedback, the Program Director/CCC may elect to issue a “Letter of Deficiency.” This letter provides the House Officer with: (1) notice of the deficiency and (2) an opportunity to cure the deficiency. “Letters of Deficiency” must be co-signed by the Program Director (or Designee) and the Director of Graduate Medical Education. The issuance of a “Letter of Deficiency” does not trigger a report to any outside agencies. The Program Director will provide the House Officer with feedback consistent with the Letter of Deficiency. If, the House Officer satisfactorily resolves the deficiency(ies) noted in the Letter of Deficiency, and continues to perform acceptably thereafter, the period of unacceptable academic performance does not affect the House Officer’s intended career development.

C. Failure to Cure the Deficiency: If the Program Director/CCC determines that the House Officer has failed to satisfactorily cure the deficiency and/or improve his/her overall performance to an acceptable level, the Program Director/CCC may elect to take further action, which may include one or more of the following steps:

1. Issuance of a new Letter of Deficiency.
2. Election not to promote to the next PGY level.
3. Requiring the repeat of a rotation that in turn extends the required period of training.
4. Extension of contract, which may include extension of the defined training period.
5. Denial of credit for previously completed rotations.
6. Dismissal from the residency or fellowship program.

D. Notification of Determination. The applicable House Officer will be informed in writing of the determination of the Program Director/CCC.

E. Reportable Actions: The decision not to promote a House Officer to the next PGY Level, to extend a House Officer’s contract such that the House Officer’s defined period of training is extended, to deny a House Officer credit for a previously completed rotation which results in an extension in training, and/or to terminate the House Officer’s participation in a residency or fellowship program are each considered “Reportable Actions.” Reportable Actions are those actions that the program must either disclose to others upon request, including without limitation, future employers, privileging hospitals, and licensing and specialty boards or for which the program has a legal obligation to report to licensing boards or accreditation agencies. House Officers who are subject to a Reportable Action may request a review of the decision as provided in this Section.
F. **Request for Review:** A review of the decision to take a Reportable Action may be requested by the House Officer. A Request for Review should be submitted in writing to the Director of Graduate Medical Education within fourteen (14) days of receiving the notification of the determination of the Program Director.

1. Upon receipt of a Request for Review, the Director of Graduate Medical Education will first determine whether the matter is review able under this Policy, and if so, the Director of Graduate Medical Education shall appoint a neutral physician reviewer who will:
   a. Review the complaint;
   b. Meet with the House Officer;
   c. Review the House Officer’s file;
   d. Meet with the Program Director;
   e. Consider any extenuating circumstances;
   f. Consult with others, as appropriate, to assist in the decision making process; and
   g. Determine whether this Policy was followed, the House Officer received notice and an opportunity to cure, and the decision to take the Reportable Action was reasonably made.

2. The Director of Graduate Medical Education will:
   a. Appoint the physician reviewer.
   b. Assist the physician reviewer to identify other potential participants, if warranted.
   c. Attend all meetings held by the physician reviewer.
   d. Coordinate communications between the physician reviewer and the House Officer.
   e. Monitor timely completion of the review process.
   f. Notify the Chief Academic Officer about the review.
   g. Notify the applicable House Officer in writing regarding the results of the review.

G. **Opportunity for a Final Review:** If either the House Officer or the Program Director disagree with the decision of the physician reviewer, either can request a final review of the decision to take a Reportable Action by the Chief Academic Officer or his or her designee. A
request for final review shall be submitted to the Chief Academic Officer in writing within fourteen (14) days of learning of the physician reviewer’s decision. The roles of the Chief Academic Officer and the process are the same as described in the “Request for Review” above. The decision of the Chief Academic Officer constitutes a final and binding decision. Upon conclusion of the review, a report of the final review will be provided to both the House Officer and the Program Director.

SECTION 4 - HOUSE OFFICER MISCONDUCT POLICY

I. Purpose

To establish a process for all programs at NYU Winthrop Hospital to use when allegations of misconduct are made against a House Officer.

II. Process

A. Allegations of Misconduct: A House Officer, employee of the Hospital, attending physician, patient, or any other person who believes that a House Officer has engaged in misconduct of any kind should immediately report his/her concerns to his/her supervisor, any other supervisor in the Hospital, or the Chief Medical Officer who in turn should communicate the allegations to the House Officer’s Program Director.

B. Initial Inquiry: Upon receipt of a complaint regarding the conduct of a House Officer, the Program Director should conduct an initial inquiry, as follows:

1. Meet with the person complaining of misconduct.

2. Meet with the House Officer to advise the House Officer of the existence of the complaint, to give the House Officer an opportunity to respond to the allegations, and to identify any potential witnesses to the alleged misconduct.

3. Consult with Director of Graduate Medical Education (GME) to determine whether the Chief Medical Officer, Department Chairman, Legal Affairs and/or Human Resources should be contacted as appropriate based on the issues and the people involved. Once the appropriate individuals are notified and if the parties agree that there was no misconduct or that the matter can be addressed informally prior to a “Full Inquiry”, the process can end at this point.

4. Upon request of the House Officer, or if the Program Director, GME Director, Chief Medical Officer or his or her designee, or Human Resources decide the incident warrants more investigation, then a “Full Inquiry” must be done.

5. All allegations of sexual harassment will be reported immediately to Human Resources in accordance with the Hospital’s policy against harassment.
6. Upon consensus of the Program Director and GME, the accused house staff officer can be removed from duty (with or without pay) pending the outcome of a full inquiry. Prior to such action, legal counsel should be consulted to determine reporting obligations, if any.

C. **Full Inquiry:** A Full Inquiry is an internal investigation of the allegation/incident by appropriate individuals (“Review Committee”), which may include Director of GME, the Program Director, the Department Chairman, Human Resources, Legal, or others. The inquiry process is administered by the Director of GME. Factual results of the inquiry, including recommendations for action as noted below, will be prepared by the GME Director and/or other responsible individuals and reported back to the Program Director for appropriate action.

1. If the full inquiry results in a finding that no misconduct occurred, no action will be taken against the House Officer. If the House Officer was suspended pending the inquiry, the House Officer will be reinstated with full benefits and pay.

2. If the full inquiry results in a finding that a House Officer participated in misconduct, the Program Director shall determine, in conjunction with the Chief Medical Officer, Department Chair, GME Director, Human Resources, Legal, or other appropriate individuals, what action is appropriate under all the circumstances, to remedy the situation. The Program may take actions including, without limitation, the following:
   a. A verbal or written warning.
   b. Election to not promote to the next PGY level.
   c. Non-renewal of contract.
   d. Suspension.
   e. Termination from the residency or fellowship program.

3. The decision regarding the appropriate action will be transmitted to the applicable House Officer in writing.

D. **Reportable Actions:** The decision not to promote a House Officer to the next PGY Level, not to renew a House Officer’s contract, to suspend a House Officer, and/or to terminate the House Officer’s participation in a residency or fellowship program are each considered “reportable actions.” Reportable Actions are those actions that the Program must disclose to others upon request, including without limitation, future employers, privileging hospitals, and licensing and specialty boards or for which the Hospital has a legal obligation to report to licensing board or accreditation agencies. House Officers who are subject to a Reportable Action may request a review of the decision as provided in this Section.

E. **Request for Review:** A review of the decision to take a Reportable Action may be requested by the House Officer. A Request for Review should be submitted to the Director of...
Graduate Medical Education within fourteen (14) days of receiving the notification regarding the Reportable Action.

1. Upon receipt of a Request for Review, the Director of Graduate Medical Education will first determine whether the matter is reviewable under this Policy, and if so, the Director of GME shall advise the Chief Academic Officer (CAO) who will:
   a. Review the complaint;
   b. Meet with the House Officer;
   c. Review the House Officer’s file;
   d. Meet with the program director;
   e. Consider any extenuating circumstances;
   f. Consult with others, as appropriate, to assist in the decision making process; and
   g. Determine whether this Policy was followed, the House Officer received notice and an opportunity to be heard, and the decision to take the Reportable Action was reasonably made.

2. The Director of Graduate Medical Education will:
   a. Advise the CAO of the request for review.
   b. Assist the CAO to identify other potential participants, if warranted.
   c. Attend all meetings held by the CAO.
   d. Coordinate communications between the CAO and the House Officer.
   e. Monitor timely completion of the review process.

3. During this process, the decision resulting from this review is a final and binding decision. A written report will be provided to the resident and the Program Director, and others as appropriate.
SECTION 5 - GRIEVANCE POLICY

I. Purpose

To establish a policy for all GME training programs within NYU Winthrop Hospital for resolution of House Officers’ complaints and grievances. This policy does not apply to actions arising out of the Academic Improvement Policy or the House Officer Misconduct Policy.

II. Responsibilities/Requirements

A. Confidentiality/No Retaliation: Grievances must be dealt with in a confidential manner, and without fear of retaliation.

B. Reporting:

1. Incidents should be reported directly to the House Officer in charge at the time of the incident.

2. If the House Officer in charge is unable to rectify the situation, the attending on the team should be consulted.

3. For an incident that is not resolved as stated above or that is not associated with a particular incident on a patient unit, the House Officer with the grievance should proceed directly to their Chief Resident.

4. If the House Officer with the grievance does not feel as though the Chief Resident has effectively resolved the issue, he/she should take the problem to the Program Director for resolution.

5. If satisfactory resolution is still not apparent after the Program Director has become involved, then the House Officer with the grievance should provide a written grievance report directly to the Director of Medical Education outlining the issue. This report should describe the involvement of the Chief Resident and the Program Director.

C. Grievance Committee: The Director of Graduate Medical Education will review the written grievance report to ensure that all of the appropriate steps, as indicated above, were followed. A Grievance Committee will then be formed consisting of, at least, the following individuals:

1. The grievant’s Program Director.

2. Director of Graduate Medical Education (or designee).

3. Chief Academic Officer (or designee).

4. A House Officer not involved with the situation.
5. Any other department representative deemed necessary by management to perform a reasonable investigation and decision-making process.

D. **Grievance Committee Investigation**: Upon hearing the grievance, the Grievance Committee will investigate all issues associated with the complaint and will provide a final written decision to the House Officer.

E. **Grievance Committee Confidentiality**: All proceedings and decisions of the Grievance Committee shall be reported to the Graduate Medical Education Committee and the applicable Program Director in a confidential manner.

SECTION 6 - MISCELLANEOUS

A. **No Retaliation**: Initial and full inquiries will be conducted with due regard for confidentiality to the extent practicable. Under no circumstances may anyone retaliate against, interfere with or discourage anyone from participating in good faith in an initial inquiry or a full inquiry conducted under this policy. A House Officer who believes he/she may have been retaliated against in violation of this policy should immediately report it to their supervisor, the Director of GME, or any other supervisor.

B. **Sexual and Other Unlawful Harassment**: NYU Winthrop Hospital is committed to providing a work environment that is free of discrimination and unlawful harassment. Actions, words, jokes, or comments based on an individual’s sex, race, ethnicity, age, religion, or any other legally protected characteristic will not be tolerated. As an example, sexual harassment (both overt and subtle) is a form of employee misconduct that is demeaning to another person, undermines the integrity of the employment relationship, and is strictly prohibited.

Any employee who wants to report an incident of sexual or other unlawful harassment should promptly report the matter to his or her supervisor. If the supervisor is unavailable or the employee believes it would be inappropriate to contact that person, the employee should immediately contact the Office of Graduate Medical Education or any member of management. Employees can raise concerns and make reports without fear of reprisal.

Any supervisor or manager who becomes aware of possible sexual or other unlawful harassment should promptly advise the Office of Graduate Medical Education or any of management who will handle the matter in a timely and confidential manner.

Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment.

C. **Reporting**: NYU Winthrop Hospital will comply with all legal reporting requirements associated with actions pursuant to this Policy, including, but not limited to, reporting requirements under New York Public Health Law 2803-e, New York Public Health Law 230 and 10NYCRR 405.
D. **Legal Counsel:** The Program and House Officers are entitled to be represented by legal counsel; however, neither the Program or the House Officers are entitled to have legal counsel present at any interviews, meetings or other proceedings described in this policy.

E. **House Officer submissions:** A House Officer is permitted to provide a written submission supporting his or her position during any of the investigations or proceeding discussed herein and the written submission will be considered by the applicable individual or body.

*NYUWH Graduate Medical Education Committee: Approved 6/6/2016*