

## **Due Process and Grievance Procedures Policy**

### General Due Process Guidelines

Sanford Health Postdoctoral Psychology Residency Program has developed a Due Process Policy and Resolution Procedure, which focuses on the prevention of and timely response to identified problematic behavior within the residency. Due Process, as described within, applies to actions that are taken as a result of underdeveloped competencies, unmet training expectations, and/or resident misconduct, that may impact the intended career development of the Postdoctoral Psychology Resident. Our Due Process Policy ensures that decisions made by the faculty are not arbitrarily or personally based and outlines specific steps that are applied to all Psychology Residents. These procedures are a protection of Postdoctoral Psychology Resident's rights and are implemented to afford the Postdoctoral Psychology Resident with every reasonable opportunity to remediate problems and to receive reasonable support and assistance. These procedures are not intended to be punitive.

Postdoctoral Psychology Residents are expected to maintain the highest standards of personal conduct, integrity, and professionalism. They are expected to support and comply with APA Ethical Guidelines and to utilize supervision effectively to grow professionally throughout the residential year. It also is the responsibility of the resident's clinical site supervisor and the Postdoctoral Psychology Residency faculty to assure that high standards of professionalism are attained by the Postdoctoral Psychology Resident under their supervision. Maintenance of these standards will promote effectiveness of both the professional training provided by the residency and the quality of psychological work provided by the Postdoctoral Psychology Resident to the clients and communities of the consortium sites.

### Definition of Problematic Behavior

For purposes of this document, a "problematic behavior" is defined broadly as an interference in professional functioning which is reflected in one or more of the following ways:

1. An inability and/or unwillingness to acquire and integrate professional standards into one's repertoire of professional behavior;
2. An inability to acquire professional skills to reach an acceptable level of competency; and/or
3. An inability to control psychological dysfunctions and/or excessive emotional reactions which interfere with professional functioning.

It is a professional judgment as to when an issue becomes problematic rather than a behavior of concern. Postdoctoral Psychology Residents may exhibit behaviors, attitudes, or characteristics that, while of concern and requiring attention, are not unexpected or excessive for professionals in training. Problems typically become

identified as impairments that require Due Process remediation when they include one or more of the following characteristics:

- The resident does not acknowledge, understand, or address the problem when it is identified.
- The problem is not merely a reflection of a skill deficit which can be rectified by the scheduled sequence of clinical or didactic training.
- The quality of services delivered by the resident is sufficiently negatively affected.
- The problem is not restricted to one area of professional functioning.
- A disproportionate amount of attention by the clinical supervisor and/or training director is required.
- The resident's behavior does not change as a function of feedback, remediation efforts, and/or time.
- The problematic behavior has potential for ethical or legal ramifications if not addressed.
- The resident's behavior negatively impacts the public view of the agency.
- The problematic behavior negatively impacts the Postdoctoral Psychology Residency cohort.
- The problematic behavior potentially causes harm to a patient.
- The problematic behavior violates appropriate interpersonal communication with Sanford Health staff.

### Due Process Procedure

Sanford Health Postdoctoral Psychology Residency Due Process procedure occurs in a stepwise fashion, involving greater levels of intervention as a problem increases in persistence, complexity, or level of disruption to the training program. Due process includes steps that assure fair evaluation of the Postdoctoral Psychology Resident's performance, resident awareness of options for resolution of performance issues and clearly defined steps for notice, review, and appeal. The procedure for dissemination and implementation of Due Process at Sanford Health Postdoctoral Psychology Residency program includes the following:

- A. The Training Faculty will present Sanford Health Postdoctoral Psychology Residency's program expectations to residents in writing, at the start of the training period. Residents will sign an acknowledgment indicating receipt and understanding of, and agreement to abide by, these guidelines and other Sanford Health Postdoctoral Psychology Residency policies.
- B. The process for evaluation of residents is clearly described during orientation. Postdoctoral Psychology Residents will be formally evaluated two times annually by their Primary Site Supervisor. The written evaluation is based on APA criteria and includes the nine (9) profession-wide competencies as outlined by the APA's Standards of Accreditation (SoA) which can be found at <https://www.apa.org/ed/accreditation/about/policies/standards-ofaccreditation.pdf>.
- C. The various procedures and actions involved in decisions regarding inadequate skills or problematic behaviors are described to residents.

## Informal Review

When a Clinical Supervisor or Sanford Health Postdoctoral Psychology Residency Faculty member believes that a Postdoctoral Psychology Resident's behavior is becoming problematic, the first step will be to address the issue with the Postdoctoral Psychology Resident directly and as soon as feasible in an attempt to informally resolve the problem. This may include increased supervision, additional didactic training, and/or structured readings. Informal remediation efforts will be discussed with the Training Director(s) and Faculty Committee. This process will be documented in writing in supervision notes; however, it will not become part of the Postdoctoral Psychology Resident's professional file. Additionally, the Training Director(s) and Faculty Committee will be notified of informal reviews and/or remediation plans.

## Formal Review

If a Postdoctoral Psychology Resident's problem behavior persists following an attempt to resolve the issue informally, i.e. if a Postdoctoral Psychology Resident receives scores that are below expectations that the resident agreed to with their supervisor during reviews, the following process is initiated:

- A. The Primary Supervisor will meet with the Training Director(s) and the Postdoctoral Psychology Resident within 10 working days to discuss the problem and determine what action needs to be taken to address the issue. If the Training Director(s) is/are the Postdoctoral Psychology Resident's direct supervisor, an additional supervisor and member of the Faculty Committee will be included in the meeting.
- B. The Postdoctoral Psychology Resident will have the opportunity to provide a written statement related to his/her/their response to the problem. The Postdoctoral Psychology Resident must submit the response to his/her/their primary supervisor and the Training Director(s) within 5 working days of the meeting described in Step A.
- C. After discussing the problem and the Postdoctoral Psychology Resident's response, the Primary Supervisor and Training Director(s) may take one of the following actions:
  - i. Issue an "*Acknowledgement Notice*," which is a written warning, formally acknowledging the following:
    1. The faculty is aware of and concerned with the problem.
    2. The problem has been brought to the attention of the Postdoctoral Psychology Resident.
    3. The faculty will work with the Postdoctoral Psychology Resident to specify the steps necessary to rectify the problem or skill deficits addressed by the inadequate evaluation rating.
    4. The problem is not significant enough to warrant serious actions; and
    5. A written notice will be submitted to the Postdoctoral Psychology Resident.

- ii. Issue a “*Remediation Plan*,” which is a time-limited, remediation-oriented, closely supervised period of training indicating the need to immediately work on improving the behavior resulting in the ratings received or to discontinue the concerning/problematic behavior. A remediation plan is an accommodation made to assist the Postdoctoral Psychology Resident, with the full expectation that the Postdoctoral Psychology Resident will complete the Postdoctoral Psychology Residency. This period will include more closely overseen supervision conducted by the Postdoctoral Psychology Resident’s Primary Supervisor in consultation with the Training Director(s). The Training Director(s), in consultation with the Primary Supervisor and the Faculty Committee will determine the length of a remediation plan. The termination of the remediation plan will be determined, after discussions with the Postdoctoral Psychology Resident, by the Training Director(s) in consultation with the Primary Supervisor. Several possible and perhaps concurrent courses of action may be included in the remediation plan.

These possible actions include:

1. Increasing the amount of supervision, either with the same or additional supervisors;
2. Changing the format, emphasis, and/or focus of supervision;
3. Recommending personal therapy and providing community referrals;
4. Adjusting the Postdoctoral Psychology Resident’s clinical or other workload;
5. Requiring specific readings and assignments.

The Training Director(s) will write a letter within 10 working days of informing the Postdoctoral Psychology Resident of this due process decision. A copy of this letter will be kept in the Postdoctoral Psychology Resident’s file and emailed to the Postdoctoral Psychology Resident and Primary Supervisor within 10 working days of completion of the letter.

The letter shall contain:

1. A description of Postdoctoral Psychology Resident’s unsatisfactory performance;
2. Actions needed by the Postdoctoral Psychology Resident to correct the behavior;
3. The timeline for correcting the problem; and
4. The action that will be taken if the problem is not corrected.

At the end of this probation period, the Training Director(s) will provide a second written statement indicating whether or not the problem has been remediated. Both statements will become part of the Postdoctoral Psychology Resident’s permanent file and will also be shared with the Postdoctoral Psychology Resident and the Primary Supervisor.

- iii. Issue a decision of “*No Cause*,” which indicates the determination that the Postdoctoral Psychology Resident’s actions may not constitute a formal problem, but rather a concern as defined above in the “*Definition of Problematic Behavior*.” The awareness of the concern may be sufficient to rectify the issue and may not

warrant further formal remediation. In this case, the Training Director(s) will complete a written statement identifying that a formal review was held and that the claim was dismissed due to "No Cause." The Training Director(s) will issue this statement within 10 working days of the meeting. The statement will be placed in the Postdoctoral Psychology Resident's permanent file, emailed to the Postdoctoral Psychology Resident and Primary Supervisor within 10 working days of writing the statement.

- D. If the problem is not rectified through the above processes, the Postdoctoral Psychology Resident's placement with Sanford Health Postdoctoral Psychology Residency Program may be terminated.
- E. If the problem represents gross misconduct or ethical violations that have the potential to cause harm, the Postdoctoral Psychology Resident's placement within Sanford Health Postdoctoral Psychology Residency Program may be terminated.
- F. The final decision to terminate a Postdoctoral Psychology Resident's placement will be made by the entire Faculty Committee and will represent a discontinuation of participation by the Postdoctoral Psychology Resident within every aspect of the Sanford Health Postdoctoral Psychology Residency Program.
- G. The Faculty Committee (all primary clinical supervisors who are faculty) will make this determination during a meeting convened within 5 business days following the conclusion of Step A of the Formal Review process or during the regularly scheduled Faculty Committee meeting, whichever occurs first.
- H. The Training Director(s) may decide to temporarily suspend a Postdoctoral Psychology Resident's clinical activities or place a Postdoctoral Psychology Resident on paid administrative leave during this period prior to a final decision being made, if warranted.
- I. Sanford Health Postdoctoral Psychology Residency Program will adhere to the APPIC's Policies on Postdoctoral Psychology Resident dismissal and secure a release from the Match contract. The final decision to terminate a Postdoctoral Psychology Resident's placement will be made by the entire Faculty Committee and will represent a discontinuation of participation by the Postdoctoral Psychology Resident within every aspect of the Sanford Health Postdoctoral Psychology Residency Program.
- J. If the Postdoctoral Psychology Resident is terminated from the program, the Resident will be required to complete all patient paperwork before leaving. The Resident will receive full credit for the hours completed at the time of termination.

## Due Process Appeal and Review Panel

In the event that a Postdoctoral Psychology Resident does not agree with any of the aforementioned notifications, remediation or sanctions, or dismissal, an Appeal may be submitted by the Postdoctoral Psychology Resident to the Faculty Committee.

- A. The Postdoctoral Psychology Resident will file a formal appeal in writing with all supporting documents -an email will suffice- to the Training Director(s). The Postdoctoral Psychology Resident must submit this appeal within 5 working days from their notification of any of the above (notification, remediation, or dismissal).
- B. If requested, the Appeal review will be conducted by a panel convened by the Training Director(s) and consisting of themselves, the Postdoctoral Psychology Resident's primary supervisor, and at least two other members of the Faculty Committee who were not part of the original review and decision. The Postdoctoral Psychology Resident may request a specific member of the Faculty Committee to serve on the review panel.
- C. The Appeal review will be held over a two-week period. The review panel will review all written materials and have an opportunity to interview the parties involved or any other individuals with relevant information. The review panel may uphold the decisions made previously or may appeal or modify them. The review panel has final discretion regarding outcome.
- D. If a Postdoctoral Psychology Resident is filing a formal appeal in writing to disagree with a decision that has already been made by the Faculty Committee and supported by the Training Director(s), then that appeal is reviewed by the Training Director(s) in consultation with the Faculty Committee. The Training Director(s) will determine if a new Review Panel should be formed to reexamine the case, or if the decision of the original review panel is upheld.
- E. If a Postdoctoral Psychology Resident is not satisfied with the result of the appeal, the resident may reach out to the leaders of Sanford Health's Graduate Medical Education program: David Theige, M.D., Medical Director of Graduate Medical Education, and Hailey Schepp, MPA, Director of Medical Education. These two leaders will review the Resident's appeal, interview the parties involved, and make a final decision.

## General Resident Grievance Procedure

These guidelines are intended to provide the Postdoctoral Psychology Resident with a means to resolve perceived conflicts. Residents who pursue grievances in good faith will not experience any adverse professional consequences. For situations in which a resident raises a grievance about a supervisor, staff member, fellow resident, or the residency program, the following procedures will be followed:

## Informal Review

First, the resident will raise the issue as soon as feasible with the involved supervisor, staff member, other resident, or Training Director(s) to informally resolve the problem.

## Formal Review

If the matter cannot be satisfactorily resolved using informal means, the resident may submit a formal grievance in writing to the Training Director(s). If the Training Director(s) is the object of the grievance, the grievance will be submitted to a Site Supervisor. The individual being grieved will be asked to submit a response in writing within 5 working days of receiving the formal grievance to the Training Director(s) or the Site Supervisor.

The Training Director(s) (or Site Supervisor, if appropriate) will meet with the resident and the individual being grieved within 10 working days. In some cases, the Training Director(s) (or Site Director) may wish to meet with the resident and the individual being grieved separately first. The goal of the joint meeting will be to develop a plan of action to resolve the matter.

The plan of action will include:

- A. The behavior associated with the grievance;
- B. The specific steps to rectify the problem; and,
- C. Procedures designed to ascertain whether the problem has been appropriately rectified.

The Training Director(s) (or Site Director) will document the process and outcome of the meeting. The resident and the individual being grieved will be asked to report back to the Training Director(s) (or Site Director) in writing within 10 working days regarding whether the issue has been adequately resolved.

In situations where the nature of the grievance constitutes a potential violation of the subject of the grievance's contract with Sanford Health, Sanford Health will be notified in accordance with the policies and procedures of the agency.

If the plan of action fails, the Training Director(s) (or Site Director) will convene a review panel consisting of him/her/themselves and at least two other members of the Training Committee within 10 working days. The resident may request a specific member of the Training Committee to serve on the review panel. The review panel will review all written materials and have an opportunity to interview the parties involved or any other individuals with relevant information. The review panel has final discretion regarding outcome.

If the review panel determines that a grievance against an individual cannot be resolved internally or is not appropriate to be resolved internally, then the issue will be turned over to the leaders of Sanford Health's Graduate Medical Education program: Dr. David Theige and Hailey Schepp. If the issue is not resolved at that level, then the issue will

be turned over to Sanford Health Human Resources to initiate the due process procedures outlined in his/her/their employment contract.

If the review panel determines that the grievance against the individual does not constitute a violation of his/her/their employment contract and can potentially be resolved internally, the review panel will develop a second action plan that includes the same components as above. The process and outcome of the panel meeting will be documented by the Training Director(s) (or Site Director). The resident and the individual being grieved will be asked to report in writing to the Training Director(s) (or Site Director) regarding whether the issue has been adequately resolved within 10 working days. The panel will reconvene within 10 working days of receiving the resident's and individual's report to again review written documentation and determine whether the issue has been adequately resolved. If the issue is not resolved by the second meeting of the panel, the issue will be turned over to Sanford Health Human Resources to initiate the due process procedures outlined in the employment contract.