

**EVALUATION OF RESIDENTS, REAPPOINTMENT,
DISCIPLINARY ACTION AND REVIEW PROCEDURE**

I. Definitions

- i. “Resident” for purposes of this document means interns, residents, and clinical fellows.
- ii. “Remediation” means the period of time designated by the Department Chief or Program Director during which the Resident must correct identified deficiencies in performance or behavior. In most instances, the remediation period shall be at least 20 days.
- iii. “Probation” means the period of critical evaluation designated by the Department Chief or Program Director during which substandard performance may be cause for immediate dismissal from the program. The period of Probation shall be specified and normally should not exceed six months; however, there may be instances where it is appropriate for the period to be as long as twelve months. There are limited circumstances where the period of Probation may be indefinite and could be imposed for the remainder of the program. These circumstances include, but are not limited to, substance abuse and ethical misconduct. Residents should be aware that Probation in some circumstances may trigger a Reporting Action.
- iv. “Reporting Action” means those disciplinary actions taken by the Hospital that under applicable Maine statutes must be reported in writing to the Maine Board of Licensure in Medicine or the Maine Board of Osteopathic Licensure. The Hospital must report all Residents “whose employment or privileges have been revoked, suspended, limited or terminated or who resigned while under investigation or to avoid investigation for reasons related to clinical competence or unprofessional conduct. . . .”.
- v. “Immediate Suspension” means removal from clinical service for an indefinite period of time without prior notice. During the period of Immediate Suspension, the Department Chief or Program Director must determine whether the Resident should be reinstated to clinical service or terminated. Residents should be aware that Immediate Suspension in some circumstances may trigger a Reporting Action.

II. Evaluation

Meaningful evaluation of a Resident's progress and performance is necessary for a number of reasons. The Accreditation Council on Graduate Medical Education and the boards require that performance be evaluated in an ongoing manner to certify competence and qualify each candidate to sit for the board examinations. It is also required to certify competence, personal and ethical integrity, and to provide documentation of clinical ability for the purpose of delineation of privileges for various hospitals. There is an obligation to the Hospital and its patients to monitor for personal problems that would interfere with the Resident's ability to responsibly discharge his or her medical responsibilities, for difficulties in interpersonal relationships that impact on the Resident's ability to relate effectively to patients, peers and staff as well as for competence and responsibility as a physician.

The Resident's departmental office shall maintain a summary evaluation for each year that will serve as the basis of letters to boards, hospitals and licensing bodies. This summary evaluation should be based on individual evaluations of Residents' performance submitted by attending staff. The individual evaluations should be used by the Department Chief or Program Director for regularly scheduled discussions of performance with each Resident. Each Department Chief or Program Director should discuss performance with each individual Resident at least twice a year. During the first year, in those programs whose Residents are spending most of their time rotating through other departments, the Department Chief or Program Director should discuss the evaluations from other services with each Resident on a more frequent basis and document that the discussion has taken place, especially where there are problems.

The majority of Residents will perform effectively and will not have significant difficulties. However, it is also important that, despite the lack of problems, performance be reviewed on a regular basis for the purpose of providing each Resident positive input relating to performance, suggestions for improvement and guidance relating to the role of the Resident in the training program. Moreover, it is very important that there be an equitable and satisfactory mechanism for an exchange of information between all parties potentially involved when actions may be contemplated that could result in the Resident's dismissal or significantly threaten his career development, or when a Resident seeks to raise issues about the program or institution. If a Resident's evaluations reflect problems, it will be the responsibility of the Department Chief or the Program Director to investigate each of these evaluations with the evaluator and determine whether the problems related are recurrent or perhaps an exception and unusual. Unless the Department Chief or the Program Director conclude the problems identified are an exception and unusual, they should discuss the individual evaluations with the Resident and solicit the Resident's input. The Department Chief or Program Director will then make a determination as to what action is to be taken, if any, and record the discussion with the Resident in the Resident's file with a copy to the Vice President for Medical Education ("VPME"). If a negative evaluation against a Resident appears to be warranted after investigation by the Department Chief, Program Director and VPME, the next step is remediation and/or probation. A copy of the evaluation and decision must be retained in the departmental office and with a copy sent to the VPME. If an individual negative evaluation of a Resident, after investigation by the Department Chief or

Program Director and discussion with the Resident, appears to be unwarranted by the Department Chief, Program Director and VPME, this evaluation will not be considered in development of the Resident's summary evaluation, but must remain on file in the departmental office. **See Appendix A: Evaluation Flow Chart**

III. Informal Grievance

At any time, a Resident may raise issues about the training program or the Hospital by bringing those issues on an informal basis to the attention of the Department Chief, the Program Director, or the VPME. If the Resident is not satisfied with the response he or she has received to any issues raised, the Resident may present the issue or issues in writing to the Senior Vice President for Medical and Academic Affairs (“SVPMAA”). A Resident may pursue the formal review procedure pursuant to section VIII below only for those issues involving the Resident’s suspension or termination from the program or the decision of the program not to renew the Resident’s appointment.

IV. Reappointments

Each year, based on the departmental Clinical Competency Committee recommendations, the Department Chief or Program Director will compile the evaluations into a Milestones report of Resident’s performance. This report will include the Department Chair’s or Program Director's own observations and opinions of the Resident's performance and a recommendation as to whether or not the Resident should be re-appointed to the House Staff for another year. If the Resident fails to meet academic and appropriate milestone¹ requirements of the program department, the Resident may be required to repeat a year of the program due to the lack of progress or performance of the Resident. If the Resident fails to meet the Milestones requirement and the decision is for non re-appointment, the Milestones report will be forwarded to the VPME. If the recommendation by the VPME is for non re-appointment, the VPME in consultation with the Department Chief and the Program Director may reevaluate the Resident’s record for a final recommendation. If the final decision is for non-reappointment, the Resident should be notified immediately of this decision and the reasons for non-reappointment. The Resident will be provided with written notice of the Program’s intent not to renew a Resident's contract. The hospital must ensure that its programs provide the Resident(s) with as much written notice of the intent not to renew or not to promote as circumstances will reasonably allow, prior to the end of the Resident’s contract. Upon request of the Resident, the decision not to reappoint may be reviewed in accordance with the procedures outlined in Section VIII below. (**See Appendix B: Reappointment**) Residents should be aware that the decision of the Hospital not to reappoint in some circumstances may trigger a Reporting Action.

V. Remediation and Probation

If the performance of a Resident is believed to be unsatisfactory for reasons including, but not limited to, clinical skill, medical knowledge, performance of duties or ethical conduct,

¹ <http://acgme.org/acgmeweb/> ACGME. Retrieved 3.15.13

the Department Chief or Program Director must notify the Resident, in writing, of the specific deficiencies. A copy of this letter shall be sent to the VPME.

V.i. Remediation

The Department Chief or Program Director may utilize Remediation requirements for unsatisfactory performance by a Resident, including but not limited to performance issues or ethical misconduct. The Department Chief or Program Director may designate a period of Remediation during which the Resident must either correct the identified deficiencies or be formally placed on Probation. Remediation may include any special educational or remedial activities designed to improve specific weaknesses in the Resident's professional skills. In most instances, the remediation period should not be less than 20 days in length and should not normally exceed six months but may last as long as 12 months if appropriate (such as with academic issues for yearly board exams).

The Department Chief or Program Director may assign a mentor for the Resident, if appropriate, during the Remediation period.

During the Remediation period, all moonlighting privileges for the Resident will be suspended.

At the end of the Remediation period, the Department Chief or Program Director will review the Resident's progress and determine whether satisfactory improvement has been made based on feedback which may be solicited from faculty, staff and peers of the Resident. If the Department Chief or Program Director concludes that the Resident has made satisfactory improvement but that an additional period of demonstrated improvement is warranted, they may continue the Resident on Remediation for a specific period of time not to exceed 12 months. If the Resident's performance again continues to be unsatisfactory following the designated Remediation period, the Resident may be placed on Probation.

(See Appendix C: Remediation)

V. ii. Probation

The Department Chief or Program Director may also place the Resident on Probation for a specified period of time. When appropriate, Probation may be imposed without a Remediation period.

The period of Probation shall be specified and should not be less than 20 days in length and should not normally exceed six months; however, there may be instances where it is appropriate for the period to be as long as twelve months. There are limited circumstances where the period of Probation may be indefinite and could be imposed for the remainder of the program.

The Department Chief or Program Director may assign a mentor for the Resident, if appropriate, during the Probation period.

During the Probation period, all moonlighting privileges for the Resident will be suspended.

In appropriate cases such as ethical misconduct or substance abuse, the Department Chief or Program Director may place a Resident on Probation indefinitely which could include the remainder of the training program.

The mentor, if any, and Program Director shall meet with the Resident at least every three months during the Probation/Remediation period to formally review the Resident's progress (meetings may be more frequent if deemed necessary).

At the end of the Probation period, the Department Chief or Program Director will review the Resident's progress and determine whether satisfactory improvement has been made based on feedback which may be solicited from faculty, staff and peers of the Resident. If the Department Chief or Program Director concludes that the Resident has made satisfactory improvement but that an additional period of demonstrated improvement is warranted, they may continue the Resident on Probation for a specific period of time not to exceed six months. If the Resident's performance again becomes unsatisfactory during the Probation period, the Resident may be dismissed without an additional Probation period.

For Residents who have been placed on Probation for substance abuse or ethical misconduct, if the Resident's performance again becomes unsatisfactory for either substance abuse or ethical misconduct during the length of the residency/fellowship period, the Resident can be dismissed without an additional Probation period. Certain programs may have stricter standards regarding substance abuse that supersede this policy. Any Resident who is placed on Probation for a third time for any reason may be continued on Probation indefinitely, including the remainder of the training program. Examples of ethical misconduct include but are not limited to: sexual harassment, patient abandonment, abuse of prescribing privileges, or unlawful discrimination. (**See Appendix D: Probation**) The Program Director, in consultation with the VPME and Legal Affairs will decide on a case-by-case basis if Probation triggers a Reporting Action.

VI. Immediate Suspension

If a Resident's behavior creates an imminent danger of injury to patients, staff members or persons on the Hospital premises, or fails to meet the level of requirements for professional licensure, he may be summarily suspended or assigned to non-clinical duties by the Resident's sponsoring Department Chief ("Immediate Suspension"). Immediate Suspension may be reviewed in accordance with the procedures outlined in Part VIII below.

A Probation period is not a prerequisite for Immediate Suspension when, in the opinion of the Department Chief, Program Director, the VPME or their designee, a determination is made that a Resident's discharge of clinical responsibilities would expose patients to unnecessary medical risks and the Hospital to unnecessary liability. In this case, a Resident

may be temporarily relieved of his/her clinical responsibilities, with pay, reassigned to other duties with pay or suspended with pay pending the outcome of an investigation by the Department Chief or Program Director. A Resident who has been so relieved/reassigned with pay or suspended with pay pending the outcome of an investigation, shall receive, within a reasonable length of time, not to exceed ten (10) working days, a written statement from the Department Chief or Program Director or designee containing a description of the deficiencies in the performance of the Resident that prompted the Immediate Suspension. If the Department Chief or Program Director determines the deficiencies warrant further disciplinary measures, the procedures detailed above concerning a Probation period shall apply. In cases in which the investigation reveals the Resident was incorrectly suspended or charged with misconduct, all record of the incident should be removed from his/her file. In cases of misconduct of a serious nature the Department Chief or Program Director can recommend that the Resident be subject to termination without application of a Probation period. The review procedures of Section VIII below shall then apply. A Resident may be suspended or terminated from the program for unprofessional, unethical or illegal conduct, unsatisfactory or substandard performance, or conduct disruptive to the operation of the Hospital or the training program.

The Program Director, in consultation with the VPME and Legal Affairs will decide on a case-by-case basis if Immediate Suspension triggers a Reporting Action.

VII. Dismissal

If the Resident's deficiencies are not satisfactorily corrected at the end of the Probation period, the Department Chief or Program Director will notify the VPME of their intent to dismiss the Resident from the residency training program. The VPME will review the Department's intended action prior to any notification being sent to the Resident. After review by the VPME, the Department Chief or Program Director must notify the Resident in writing (if mailed, certified mail is required) of their decision to dismiss the Resident, with a copy of the notification to the VPMA. The letter must identify the deficiencies that have not been adequately corrected.

If the Resident believes the dismissal is unwarranted, the Resident may file a request for review following the procedures of Section VIII, below.

The Program Director, in consultation with the VPME and Legal Affairs will decide on a case-by-case basis if Dismissal triggers a Reporting Action.

VIII. Review Procedure

This Review Procedure is limited to challenges by a Resident to suspension or termination during the training year or non-renewal of the annual Resident Appointment Agreement or a decision to require the Resident to repeat a program year.

The decision to suspend, terminate, not to renew the appointment of, or the required repetition of a program year by a Resident is an academic responsibility of the Hospital. The Review Procedure is intended to protect the rights of the Resident and the training program and to insure fair treatment for both parties.

All "written notification" associated with the Review Procedure shall be by certified mail.

a. Notification of intent to appeal:

After receiving the written notification of suspension, termination, non-renewal or the required repetition of a program year, the Resident will have 10 calendar days to file, in writing, a request for review with the VPME.

b. Assembly of Review Committee:

Upon receipt of a written request for review, the VPME will convene an ad hoc committee to review the Resident's case (the "Review Committee"). The Review Committee shall seek advice from Hospital Counsel who shall be present for the hearing to advise the Committee. The Review Committee may also seek advice from outside experts in the field of the Resident's specialty if deemed necessary.

The Review Committee will consist of four physicians, two of whom shall be attending members of the Medical Staff, one senior Resident and one Resident at the same educational level as the Resident under review. None of the members of the Review Committee shall be from the same department as the Resident under review or have any direct involvement with any matter upon which the suspension, termination or non-renewal of appointment or repetition of a program year is based. The VPME will chair the Review Committee. If the VPME is from the same department as the Resident or has direct involvement with any matter upon which the suspension, termination or non-renewal of appointment or repetition of a program year is based, then the VPME shall designate an attending member of the Medical Staff to serve in his/her place. The Resident may object to a member of the Review Committee for cause. The VPME has sole discretion to replace a member if deemed warranted.

c. Hearing:

The Review Committee will assess the merits of the case and hear evidence and arguments by the Resident and the Department Chief or Program Director. The Resident may be represented by an attorney in an advisory capacity, but the attorney may not function as a spokesperson for the Resident during this review process or take an active role in the hearing process. The Department Chief or Program Director is obligated to present to the Committee the reasons for, and substantiating evidence of, the Resident's suspension, termination, non-renewal or required repetition of program year. The Resident may question witnesses who testify on behalf of the Department Chief or Program Director. The Resident may present documents, letters of support and call the testimony of witnesses. These witnesses may be questioned by the Department Chief or Program Director. Formal rules of evidence shall not apply. The Resident shall have the burden of persuading the Review Committee that the charges or grounds involved lack

any factual basis or that such basis or any action based thereon is arbitrary, unreasonable or capricious.

The Committee shall tape record the hearing proceedings, but not its deliberations. Either party may, at its own expense, have a verbatim transcript made of the proceedings by a court reporter. Both parties may request a copy of the tape recording made by the Committee.

d. Committee Determination:

The Review Committee will make its determination within 30 days from the close of the hearing. The Committee will notify the Resident, Department Chief and Program Director in writing of their decision. The Committee shall decide whether to uphold the suspension, termination, non-renewal or required repetition of a program year or to reinstate the Resident. Should the Resident be reinstated, the Committee may impose an additional period of Probation and/or Remediation as a condition of continuation.

e. Right of Further Review:

If the Resident is not satisfied with the decision of the Review Committee, he or she may appeal the decision within ten calendar days by filing a written statement with any supporting information or documentation with the SVPMAA. Upon receipt of the request for further review, the SVPMAA shall review the information and within ten (10) business days notify the Resident of his decision, which decision shall be final. The only grounds for review by the SVPMAA shall be: the failure to comply substantively with this section VIII, that the recommendation or decision of the Review Committee was arbitrary or capricious, or that the recommendation or decision of the Review Committee lacked any factual basis.

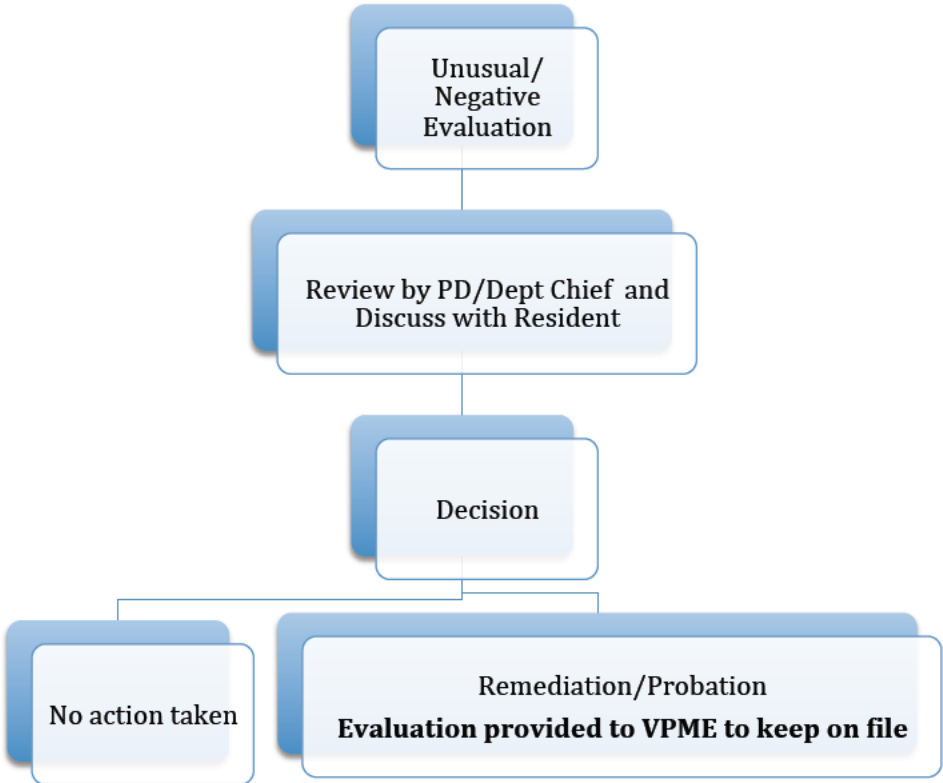
f. Record-Keeping/Reporting:

A final adverse action as to reappointment, suspension, termination or required repetition of a program year, or any disciplinary action shall become a permanent part of the Resident's record. Information concerning any Remediation or Probation period shall be kept in the Resident's record until the Resident is eligible for reappointment, but shall be kept for at least one year. A final decision to reject a prior adverse decision will be kept permanently in the Resident's file. Final adverse actions shall be reported to the appropriate body as required by governing state or federal law and regulations.

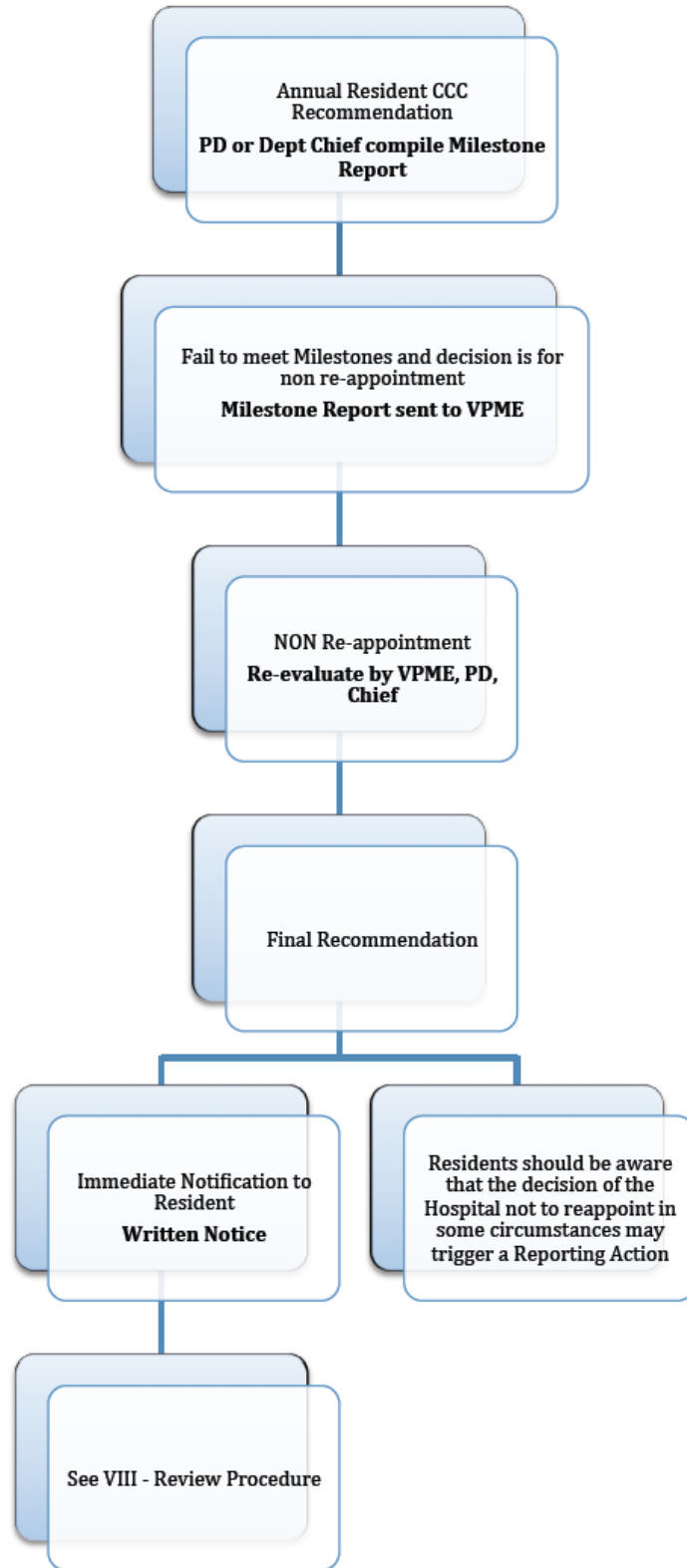
Reviewed and approved by the GME Committee, May 13, 2002.

Revised and approved by the GME Committee June 26, 2013; effective date September 1, 2013.

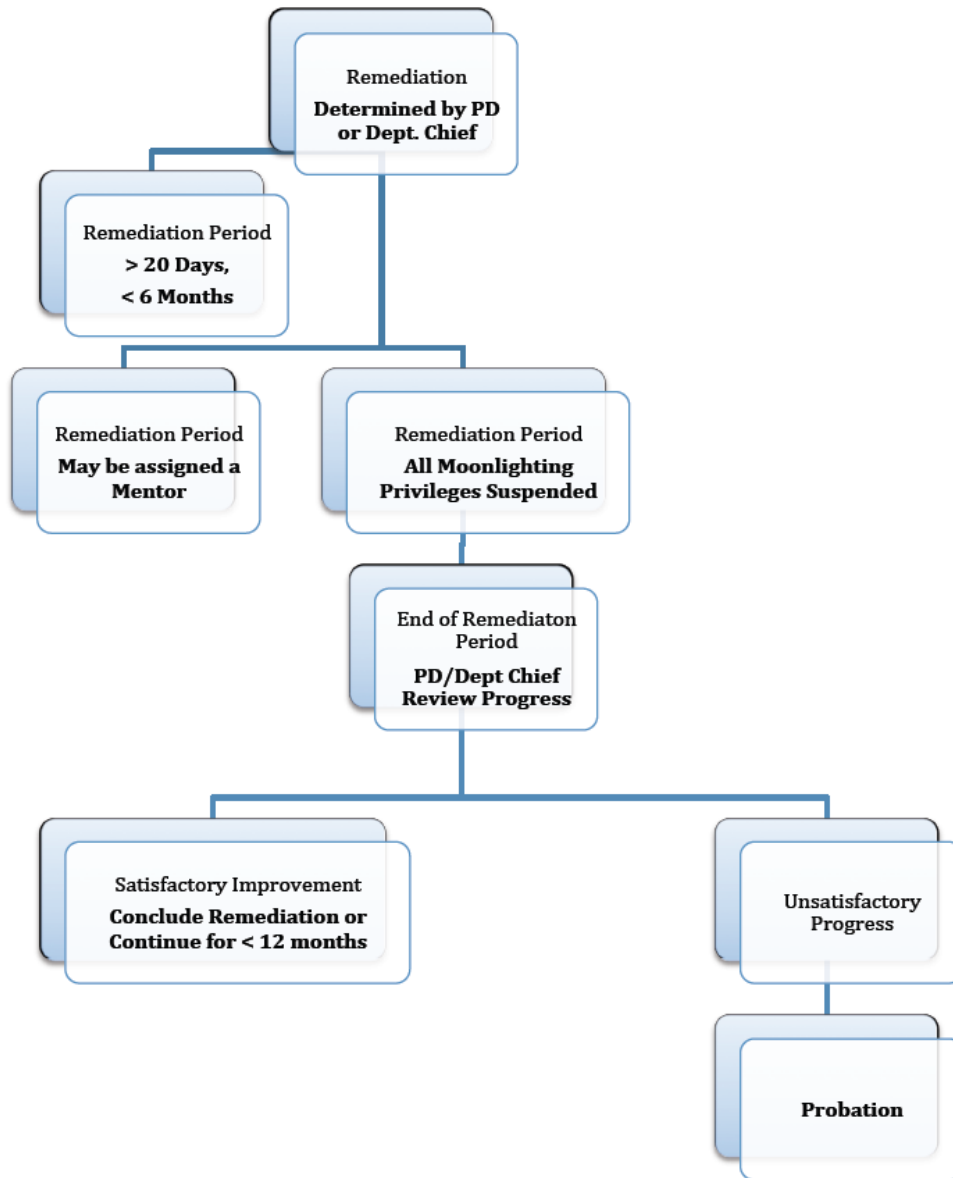
Appendix A: Evaluation Flow Chart



Appendix B: Reappointments



Appendix C: Remediation



Appendix D: Probation

