

1.00 Appropriate Treatment of Medical Students Policy

(1) General statement of purpose

The purpose of this policy is to establish a formal process for resolving allegations of mistreatment involving students and faculty.

(2) Examples of mistreatment

Examples of mistreatment include sexual harassment; discrimination based on race, color, gender, national origin, age, religion, creed, disability, veteran's status, sexual orientation, gender identity or gender expression; purposeful humiliation, verbal abuse, threats, or other forms of psychological mistreatment; and physical harassment, physical endangerment and/or physical harm.

(3) Education and training

To promote an environment respectful of all individuals, the School of Medicine will provide ongoing education to students, residents, fellows, faculty, and other staff emphasizing the importance of professional and collegial attitudes and behavior. Also, the school will make available a mediator whom students may approach if they believe they have been mistreated. Appropriate methods of communicating to specific groups are as follows:

- (a) Medical students. A section on mistreatment will be included in the School of Medicine's student handbook. Each year this topic will be included in the agenda for orientation. Reference will be made to this topic in the course policies for each pre-clinical course and clinical rotation. Information about the Hospital policy on harassment and work place violence will also be included in the student handbook. Finally, the Whitehead Medical Society (WMS) and the Class Advocates, with the assistance of the student body, will reassess the functioning of this policy on a regular basis.
- (b) Faculty, Residents, & Fellows. An informative written message will be sent each year from the Dean's office to all department chairs. The Dean will direct the pre-clinical department chairs to convey the information to all course directors. The course directors will, in turn, present the information to all faculty involved in teaching their courses, including community preceptors and faculty teaching at Area Health Education Centers. The Dean will direct the clinical department chairs to convey the information to the course, clerkship, elective, and selective directors and to the residency program directors to assure that all faculty, fellows, and residents in their departments are cognizant of the policy.
- (c) Hospital staff. (excluding physicians in training) An informative message will be sent to the Senior Vice President and Director of Human Resources for distribution to all hospital staff.
- (d) School of Medicine Administrative faculty and staff. An informative written message will be sent each year from the Dean to the administrative faculty and staff to explain the policy and the program.

(4) Scope of Policy

(a) If The University of North Carolina at Chapel Hill has an existing policy and/or procedure for resolving the type of mistreatment that has been alleged, that policy and/or procedure will be followed. Such policies include, but are not limited to, the Student Grievance Procedure (including student grievances against University employees alleging sexual harassment, racial harassment, and discrimination on the basis of sex or sexual orientation) which inter-relates with the University's Sexual Harassment Policy and the University's Racial Harassment Policy. Most student complaints against other students are addressed through the University's Instrument of Student Judicial Governance.

(b) If the individual accused of mistreatment is an employee of an entity other than the University, the allegations will be addressed under the policies and procedures of the individual's employer as set out in more detail hereafter.

(1) If the accused is a physician in training, the allegation of mistreatment will be referred to the Office of Graduate Medical Education. The Program Director and clinical chair will be informed of the allegation. The Hospitals' office of Employee and Management Services, in collaboration with the Office of Graduate Medical Education will investigate the allegation according to their standard procedure for such investigations. The results of this investigation will be reported to the School of Medicine's Associate Dean for Student Affairs.

(2) If the accused is a hospital employee other than a physician in training, the allegation of mistreatment will be referred to the Hospitals Office of Employee and Management Services. The Director of Human Resources or Chief Human Resource Officer will be informed.

(c) If the individual accused of mistreatment is a patient, the allegation of mistreatment will be referred to the School of Medicine's Associate Dean of Student Affairs for appropriate handling.

(d) If the accused is a student, the allegation of mistreatment will be referred to the School of Medicine Student Attorney General and investigated according to the procedures described in the *Instrument of Judicial Student Governance*. If the Student Attorney General finds that the allegation of mistreatment does not constitute an offense under the Instrument of Student Judicial Governance or represent non-compliance with the Technical Standards, then the allegation may be addressed under the Appropriate Treatment policy.

(e) This Appropriate Treatment policy shall be used to address only those cases where a student alleges mistreatment by a University employee or student that is not addressed by the University policies and procedures described in (4)(a) and (4)(d) or by other policies and procedures that the University may adopt at a later time to address other types of mistreatment. The mediator will be familiar with such policies and procedures and will advise students of the appropriate routing for complaints that do not fall within the scope of the Appropriate Treatment policy.

(5) Mistreatment Resolution

(a) When an allegation of mistreatment occurs, the parties directly involved may try to resolve the matter themselves, since many such incidents are amenable to resolution in this manner. In some situations, however, this informal approach might be hindered by various factors, including reluctance of the accuser to approach the accused, intransigence of the accused, or differing perceptions of the incident by the parties involved. In such cases, a more formal alternative process is available for resolving the matter. This process is designed to be fair to both the accuser and the accused and to be perceived by the accuser as effective, impartial, and unlikely to result in retaliation.

(b) Students will most likely address a mistreatment issue initially with a Class Advocate, WMS Officer, Faculty Advisor, Career Goal Advisor, faculty instructor, mentor or the Associate Dean for Student Affairs. People in these positions should be aware of and able to advise students about the formal process for addressing medical student mistreatment grievances and should direct the student to contact the mediator. The mediator will advise the student on the appropriate mechanism for addressing the allegation based on the position of the accused and the nature of the grievance.

(c) For allegations of mistreatment by fellow students that do not constitute an offense under the Instrument of Student Judicial Governance or non-compliance with the Technical Standards, and allegations involving faculty, EPA non-faculty, or SPA employees, the student, in consultation with the mediator, may choose one of two processes below to address his or her grievance. Both processes are responsible to and overseen by the Appropriate Treatment of Medical Students Council.

(i) Process A: Departmental Resolution

(A) Course Director: The student may report the incident to the Course Director. The course director has the authority to investigate the incident and attempt to resolve the matter. The Course Director shall send a written statement of his or her findings to the School of Medicine's Associate Dean for Student Affairs who shall forward it to the ATMS Council. The Associate Dean for Student Affairs shall maintain a file of the final report with the statement.

(B) Department Chair: If the accuser or the accused is unsatisfied with the results achieved by working with the Course Director either may appeal the matter to the Chair of the accused employee's department. The Chair shall investigate and attempt to resolve the matter. The Chair will also review the findings of the Course Director. The Associate Dean for Student Affairs will maintain a file of the final report with the statement.

(C) If the accuser or the accused is unsatisfied with the results achieved through the Departmental Chair then either may appeal the matter to the Appropriate Treatment of Medical Students (ATMS) Council (See Appropriate Treatment of Medical Students Council below at 1.02(4)(h)).

(ii) Process B: Extra-departmental Resolution

(A) Mediator: The position of mediator has been established to help resolve such matters. The role of the mediator, as the name implies, is to mediate between the conflicting parties and strive for reconciliation. Either the accuser or the accused may contact the mediator to seek assistance in resolving the matter. The mediator will encourage the parties to work out the problem between themselves, but also will be available as a facilitator of this process. The mediator is a rotating position among members of the ATMS Council from 1.02(4)(h). The mediator may consult with the Associate Dean for Student Affairs regarding School of Medicine policies and procedures. The mediator is ultimately accountable to the Dean of the School of Medicine.

(B) Alternate Mediator: A member of the council from 1.02(4)(h) will also serve as an alternate mediator. The alternate mediator can serve in the role of mediator if needed.

(d) Appropriate Treatment of Medical Students Council ¹

(i) It is anticipated that the mediator's assistance will result in the resolution of most cases brought to the mediator's attention. However, if a reasonable effort does not yield a solution, the mediator may seek the assistance of the Appropriate Treatment of Medical Students Council in resolving the case. The council is available for any case in which the accuser or the accused is not satisfied with the results obtained through the departmental efforts in Process A or the mediator's efforts in Process B. The purposes of the council include the following: to ascertain the facts, to the extent feasible; to mediate between the parties; and to strive for reconciliation. The council will assess the evidence objectively, be fair in its deliberations, and protect the rights of both the accused and the accuser.

(ii) The council shall be structured in the following way:

(A) The council consists of the Assistant Dean for Graduate Medical Education, the Director of Employee and Management Services, the President of the Housestaff Council, four students selected by the Whitehead Medical Society (as outlined by the WMS Constitution), and four faculty appointed by the Executive Associate Dean for Medical Education after consultation with the Executive Associate Dean for Clinical Affairs. The faculty will come from the pool of faculty advisors.

(B) A quorum consists of six members but must include at least two students and two faculty members. The council may not act without a quorum.

(C) The faculty advisors serving on the council will rotate in the role as mediator and alternate mediator. While serving in the role as mediator, the council member will not be a member of the council. The alternate mediator may continue to serve on the council if he/she is not needed to serve as the mediator in a given case.

¹ The Dean, the Department Chair and the Associate Dean for Student Affairs Decisions should be made aware of each anticipated hearing by the council and should receive a report after each decision or outcome.

(D) Appointments are staggered so that the council always has experienced members.

(E) Either the accused or the accuser may seek to have a particular council member disqualified from consideration of the case if he or she believes that the member is not capable of making an unbiased decision.

(F) The council shall have a chair and deputy chair. The chair is elected from the faculty members. The deputy chair is elected from the student members.

(G) The faculty chair shall not vote except to break a tie.

(iii) Council Procedures. The council becomes involved in a given case only after the department in Process A or the mediator in Process B have made reasonable efforts to resolve it and one of the parties is not satisfied with those efforts.

(A) Process A Council Resolution – After going through both the Course Director and the Departmental Chair, the accuser or the accused may request a supplemental hearing by the ATMS Council (See Supplemental Hearing below at 1.02(5)).

(B) Process B Council Resolution – If the conflict has come to the council through Process B, the council will provide all the information gathered by the mediator to the department involved then instruct the department to begin an initial investigation into the mistreatment. The department is required to report its findings to the council within two weeks of receiving notice of the complaint and information from the mediator. The findings of the department should include its evaluation of the alleged mistreatment, additional evidence uncovered, and whether any disciplinary action is suggested.

(iv) The council will then consider the departmental report and do one of the following:

(A) Accept the report as a whole and recommend the suggested disciplinary action, if any, to the Dean of the School of Medicine.

(B) Accept the report as a whole and recommend a different disciplinary action to the Dean.

(C) Reject the findings of the department and request additional information.

(D) Hold a hearing on the case to supplement the findings of the department.

(v) If either the accuser or the accused believes the allegation was not adequately and fairly addressed, he or she may request that the council hold a supplemental hearing (See Supplemental Hearing below at 4.02(5)).

(5) Supplemental Hearing

(a) When the council hears a case, the mediator, accuser, and accused are present along with any appropriate witnesses. The council chair and deputy chair are responsible for notifying the parties concerning the time and place of the council meeting. The proceedings begin with the mediator presenting the case. The accuser and the accused both have an opportunity to speak and to bring witnesses to speak. The order of the speakers is as follows: (1) the accuser; (2) witnesses for the accuser; (3) the accused; (4) witnesses for the accused. The accused has the right to be present whenever statements are being made by the mediator, the accuser, or any witnesses. Similarly, the accuser has the right to be present during statements by the mediator, the accused, or witnesses. Witnesses will be present only when they are called to give information. After speaking, they will be asked to leave, in order to protect the confidentiality of the proceeding. All who are involved in the process of responding to allegations must be instructed to maintain confidentiality.²

(b) Legal Counsel. The accuser and accused are not allowed to bring lawyers to council meetings as advocates, advisors, or observers, nor may they bring any other persons, except witnesses and support persons (e.g. faculty advisors, mentors, counselors).

(c) When the council finds that mistreatment has occurred, a letter will be sent from the council to the Dean, summarizing the findings of the council and recommending action to the Dean. The Dean will then decide what action to take. The Dean or Dean's delegate will advise the accused and accuser concerning the final disposition of the matter.³

(d) Actions against an accused who is found responsible for mistreatment may include, but are not limited to: a requirement to apologize to the accuser, review educational material, attend an educational session; a reduction in salary or bonus associated with a decrease in teaching activities; otherwise appropriate disciplinary actions; or dismissal.

(e) If the accused is found responsible for mistreatment, and was involved in evaluating the accuser's academic performance, then the accuser may wish to appeal his or her course grade to the Student Appeals Committee. The findings of the council shall be made available to the Student Appeals Committee at the student's request. A council hearing will adhere to the following procedures:

(f) Appearance before the council does not waive any civil or criminal rights of the parties.

(g) If it is the mediator's judgment that the council should be brought into a case, the accused does not have the right to prevent the council from meeting. Provided the accused has received appropriate and timely notice of the hearing, if the accused does not attend, the council may still meet, hold a supplemental hearing, and issue recommendations to the Dean.

(h) If a council member is approached by a student who believes that he or she has been mistreated, the council member will refer the student to the mediator.

(i) An additional duty of the council is periodically to evaluate and improve the ongoing education of the campus community concerning mistreatment.

(j) Essential records are maintained by the mediator.

² In some situations the mediator or council might be justified in communicating information that would ordinarily be confidential to other university officials, provided such officials have a legitimate "need to know."

³ If the Dean chooses, his or her delegate could be the faculty chair of the council.

(6) Appeals Process

- (a) Appeals from council decisions are directed to the Dean of the School of Medicine. These appeals must be in writing and state the reason for appeal.
- (b) The decision of the Dean of the School of Medicine may be appealed to the Chancellor. These appeals must be in writing and state the reason for appeal.

(7) Protection from retaliation and malicious accusations

- (a) Protection from retaliation. Any act by a University employee or agent of reprisal, interference, restraint, penalty, discrimination, coercion or harassment—overtly or covertly—against a student for responsibly using the Policy and its procedures violates this Policy and is a ground for prompt and appropriate disciplinary action.
- (b) Abuse of this policy. Charges found to have been intentionally dishonest or made in willful disregard of the truth will subject the complainant to disciplinary action.
- (c) Restoration of accused's reputation. In the event the allegations are found not to be substantiated, all reasonable steps will be taken to restore the reputation of the accused as deemed appropriate by the Council.

Notes and Procedures:

1.02(1)

The University of North Carolina School of Medicine has a responsibility to foster in medical students, postgraduate trainees, faculty, and other staff the development of professional and collegial attitudes needed to provide caring and compassionate health care. To nurture these attitudes and promote an effective learning environment, an atmosphere of mutual respect and collegiality among teachers and students is essential. While such an environment is extremely important to the academic mission of the School of Medicine, the diversity of members of the academic community combined with the intensity of interactions that occur in the health care setting may lead to incidents of inappropriate behavior or mistreatment. The victims and perpetrators of such behavior might include students, pre-clinical and clinical faculty, administrators, fellows, residents, nurses, and other staff.

1.02(2)

The following are examples of types of mistreatment and are not inclusive.

- to speak insultingly or unjustifiably harshly to or about a person
- to belittle or humiliate
- to threaten with physical harm
- to physically attack (e.g., hit, slap, kick)
- to require to perform personal services (e.g., shopping, babysitting)
- to deliberately and repeatedly exclude from reasonable learning experiences
- retaliation for making an allegation of mistreatment

Such actions are contrary to the spirit of learning, violate the trust between teacher and learner, and will not be tolerated by the School of Medicine. For purposes of this policy, to mistreat is to treat in a harmful, injurious, inappropriate, or offensive way.

1.02(3)

The school may incorporate a semi-annual newsletter to students about the procedures and mechanism of the student mistreatment committee. The school may also incorporate this policy into standard educational/orientation materials given to students, staff, and faculty.

Education of the medical school community concerning mistreatment serves several purposes. First, it promotes a positive environment for learning, characterized by attitudes of mutual respect and collegiality. Second, it informs persons who believe that they have been mistreated that avenues for seeking redress are available. Third, it alerts potential perpetrators of mistreatment to the school's policy on and process of responding to allegations of mistreatment.

Educational efforts will be directed to all members of the School of Medicine's community.

Moreover, special efforts will be made to assure that the educational

message reaches certain groups at risk of being involved in mistreatment as victims or perpetrators.

Specifically, these include the following: pre-clinical and clinical students; residents; pre-clinical and clinical faculty; and nurses.

1.02(4)

A process has been established to seek reconciliation between the parties in cases of alleged mistreatment. This process seeks to protect the accuser from retaliation and to protect the rights of all parties involved in a complaint. Through these efforts the School of Medicine will maintain an atmosphere essential to its educational mission in the training of physicians as professionals.

Process A (Departmental Resolution) may be appropriate under most circumstances where the Course Director and Chair are familiar with the accused employee. Conflicts may be quickly resolved in these instances because of departmental knowledge and experience.

Process B (Extra-departmental Resolution) may be used in circumstances where the student feels most comfortable addressing the conflict outside the department.

To ensure compatibility with current policies, this process for responding to allegation of mistreatment includes several features:

- The mediator must be knowledgeable concerning the various UNC and School of Medicine policies for handling complaints.
- The mediator's role is to discern whether a given complaint should be handled by the mediator or through other channels. For example, if a student claims to have received an unfair grade, the mediator will advise the student to use the procedures currently in place for appealing grades, as described in the student handbook. Disputes over grades will be handled according to such policies, rather than by the mediator.
- When faced with questions concerning the university's legal responsibilities, the mediator must seek advice from the UNC-Chapel Hill Office of General Counsel.

When it is the Dean's judgment that a violation of university policy has occurred, the accused will be put on notice that he or she has violated such policy, and appropriate action will be taken.

Approved by the UNC-Chapel Hill Office of University Counsel, October 31, 2003
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