

APPEALS COURT HANDS MEDICAL SCHOOL A WIN IN RESIDENT'S DUE PROCESS CASE: KEY TAKEAWAYS AND 6 STEPS YOU CAN TAKE NOW

Insights
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An appeals court recently sided with a medical school by holding that it did not violate a medical resident's due process rights in dismissing her from its residency program. In reaching this decision, the 6th U.S. Circuit Court of Appeals held that medical residents have the same minimal due process rights as students and that the school had given the resident appropriate due process through formal warnings and other disciplinary procedures. While this outcome was a win for the medical school and associated healthcare companies, the case serves as a good reminder for schools, program directors, and hospital administrators on what they must do to satisfy their due process obligations. We'll give you some key takeaways and six steps you should take now.

How Much Due Process Is Owed?

In *Mares v. Miami Valley Hospital*, the 6th Circuit looked at the level of due process owed to the resident before determining whether the school gave her enough due process in dismissing her from the medical school's obstetrics and gynecology residency program. The resident argued that, due to her substantive clinical work, she should be given the same level of due process afforded to employees. But the court held that medical residents have the same minimal due process rights as students because the residency program is "more akin to an educational program than full employment."

As background, the U.S. Supreme Court held 50 years ago in *Board of Curators of Univ. of Missouri v. Horowitz* that

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students in school are entitled only to “minimal due process protections.” The 6th Circuit’s recent decision makes it the fourth federal appeals court to hold that medical residents are owed the same minimal due process rights as students.

How Much Due Process Is Enough?

According to the *Mares* court, the school supplied the resident with sufficient process because in less than two years during her residency, the school had repeatedly warned and disciplined the resident (including suspending her and placing her on probation) for unprofessional conduct. After the problematic conduct continued, a university committee recommended her dismissal and the program administrators then followed extensive internal procedures including giving the resident multiple opportunities to appeal a dismissal decision.

The court also pointed out *substantive* due process does not protect a student’s interest in continued enrollment in higher education – but even if it did, the resident failed to show that the university decision was either “arbitrary or conscience-shocking.”

Key Takeaways for Residency Programs

Residency program directors and hospital administrators must understand their due process obligations to their residents – not only to comply with the law but also to maintain accreditation standards.

ACGME Guidelines

Academic institutions that operate medical residency programs – known as Graduate Medical Education (GME) programs – must follow certain criteria to remain in good standing with the Accreditation Council for Graduate Medical Education (ACGME).

Academic Deference

Both the ACGME and cases like *Mares* distinguish between dismissals for academic versus disciplinary reasons. Federal courts generally grant academic institutions more deference in evaluating academic performance (such as lack of knowledge or poor judgment) because they are best equipped to evaluate a student’s competency for a particular grade or credential. In contrast, courts may give less deference to institutions when discipline is based on

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misconduct (for example, “resident hit the patient/a colleague”) rather than feedback as to competency (for example, “intubation was performed incorrectly/in a dangerous manner”).

Exceptions to Academic Deference

Exceptions may occur only under specific circumstances, such as instances of discrimination or when a state court specifically finds the defense is unavailable under state law. For example, a California court recently held the traditional defense of “academic deference” is not available in the case of a medical resident, because under California law they are more akin to an employee than a student. There may be other states that follow California’s lead.

Minimum Standards

Under current law and ACGME standards, the due process owed to medical residents includes providing residents (as applicable, depending on whether action was taken based on academic deficiencies or other misconduct):

- a **notice** of their academic deficiencies or the program’s accusation of misconduct;
- an **opportunity** to cure those deficiencies or be heard on the accusations; and
- a **reasonable process** for deciding whether the learner has cured those deficiencies and met the standards for receiving the academic credential or for deciding whether the learner engaged in misconduct.

These steps are designed to ensure transparency and fairness, helping protect both the residents’ rights and the integrity of the medical education process.

6 Steps You Should Consider Taking Now

To stay compliant with federal due process requirements and ACGME guidelines, residency programs should consider the following practices:

- **Confirm What Action is Reviewable**: Not all actions taken with respect to a medical resident are reviewable. For example, placing a medical resident on paid administrative leave pending an investigation is not disciplinary and not subject to any due process review. Requiring a medical

resident to repeat an academic year due to unsatisfactory progress, on the other hand, is subject to due process review.

- **Establish a Formal Review Process:** Your policy should outline the necessary steps and timeline for an appeal of a disciplinary action. This should include how the appeal committee is formed, what evidence may be exchanged, when the hearing will take place, who is allowed at the hearing, any limitations on the remedies available, and whether any further appeal may be taken.
- **Document Policies Clearly:** Ensure that all policies related to resident evaluation, promotion, and dismissal are well-documented and easily accessible. This transparency helps prevent misunderstandings and provides a clear basis for any necessary disciplinary actions.
- **Train Administrators and Staff:** Conduct and document regular training sessions for everyone involved in the resident evaluation process, especially members serving on a Clinical Competency Committee or similar evaluative body. Understanding the principles of due process in this unique context and how to apply them consistently is crucial to mitigating future due process complaints.
- **Communicate Effectively:** Keep lines of communication open with residents. Promptly inform them of any issues with their performance and provide them with opportunities to correct these issues before escalating to formal disciplinary actions. Catching problems early on can save you tons of time and money.
- **Document, Document, Document:** As always, keep thorough records of communications and any disciplinary actions, and be familiar with any special recordkeeping requirements imposed by your state laws.

Conclusion

Navigating the complexities of due process for medical residents can be challenging, but maintaining compliance is essential for securing your program against potential legal challenges and contributing to a more positive and productive educational environment.

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