Handling the Underperforming Resident: Remediation is NOT Punishment

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At the conclusion of this presentation, participants will be able to:

1. Describe 15 crucial guidelines for effectively handling an *underperforming resident*, including techniques to avoid the splitting process.

2. Explain five major points about remediation in OGME.

3. Describe six essential elements of an educationally sound and legally defensible remediation plan.

4. Explain the legal requirements for GME (i.e., Academic Law) and how to conduct a proper grievance/appeal hearing.
The Underperforming Resident
15 Crucial Guidelines

1. Keep Policies & Procedures for Resident Evaluations, Remediation, Promotion, Dismissal, Resignation, Non-Renewal, and the Grievance/Appeal Hearing SIMPLE and STRAIGHTFORWARD.

2. Have your legal office REVIEW & APPROVE policies and procedures before each academic year begins.

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The Underperforming Resident
15 Crucial Guidelines

3. Follow the approved policies and procedures. NO SHORTCUTS, ADDITIONS, or EXCEPTIONS

4. Identify and eliminate ENABLING BEHAVIORS in yourself and others.

5. Investigate each reported incident/complaint. Is it an ISOLATED CASE or PART of a PATTERN?
The Underperforming Resident
15 Crucial Guidelines

6. Intervene IMMEDIATELY before the problem grows worse over time.

7. Give supportive, specific INSTRUCTIVE FEEDBACK.

8. DOCUMENT all meetings with and about the resident, and collect all relevant correspondence.

9. Design a FORMAL REMEDIATION PLAN if a mistake or problem persists.
The Underperforming Resident
15 Crucial Guidelines

10. Do NOT make educational decisions out of FEAR, INTIMIDATION, or the THREAT of a LAWSUIT. Do NOT get distracted by non-educational factors.

11. Understand the Requirements of DUE PROCESS under ACADEMIC LAW.
The Underperforming Resident
15 Crucial Guidelines

12. Verify the identity of anyone who calls you to request information about a former resident, otherwise, politely REFUSE to speak with the person.

13. Respond to questions about a former resident’s performance with the phrase:

“I will comment on what the doctor told you in response to this question...”
The Underperforming Resident
15 Crucial Guidelines

14. Respond to inaccurate or incomplete answers provided by a former resident by saying:

   “Please contact the doctor and tell him/her we had this conversation and I suggested you ask this question again...”

15. Follow-up a telephone conversation about a former resident with a formal letter or email to document it.
FORMAL ACADEMIC REMEDIATION
Five Major Points

1. Accept Obligation to Protect the Public
   The DME, the PDs and the Faculty have the authority for ALL decisions affecting residents in their programs

2. Make Decisions Using Sound Educational Principles and Accepted Standards of Practice

3. Apply Processes Clearly and Consistently

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FORMAL ACADEMIC REMEDIATION
Five Major Points

4. Develop Formal Remediation Plan if there is no Improvement after Informal Remediation
   NOT Rehabilitation, Recycling or Punishment!

5. Dismiss Resident from the Program after Failing Formal Remediation
ACADEMIC REMEDIATION PLAN
Six Critical Elements

1. Remediation Process is Described Clearly in the Institutional and the Program OGME Handbooks.

2. Resident Performance Data is Collected from Multiple Sources and Related to the AOA Competencies.
ACADEMIC REMEDIATION PLAN
Six Critical Elements

3. Thorough Assessment of the Performance Problem(s) includes an *Educational Consultation*.

4. Corrective Steps Mirror the Resident’s Performance Problem(s).
5. Performance Criteria Required to Correct Deficiency is Specific and Measurable

*Describes What to Do & What Not to Do!*

6. Plan also Includes a Timeline for Completion, Consequences for Completing or Failing to Complete, and Signatures of the Program Director & the Resident.
ACADEMIC LAW

General Requirements

1. Academic Standards and Evaluation Methods are Public Information.

2. All Residents are Judged by the Same Criteria and Evaluation Methods.

3. Review the Entire Record of Performance to Make a “Reasonable Academic Decision” (i.e., not arbitrary or capricious)
1. Give the resident NOTICE of the problem.

2. Provide an Opportunity to CURE (i.e., correct).

   FORMAL Remediation Recommended; NOT Required

3. Make a “Reasonable Academic Decision.”
ACADEMIC LAW
Due Process for Misconduct

1. Give the resident NOTICE of the problem.

2. Provide an Opportunity to be HEARD.

3. You are NOT required to allow the resident to correct the problem.

4. Make a “Reasonable Academic Decision.”
GRIEVANCE/APPEAL HEARING
Five Questions for the Committee

1. Was the resident’s performance judged using the same criteria and instruments used for other residents in program?

2. Was the resident notified of the deficiencies to be corrected?

3. Was the resident instructed to correct the deficiencies?

4. Was the resident placed on formal academic remediation?
   (If the resident was not placed on formal academic remediation, the Program Director must explain the reason for that decision.)

5. Was the resident’s performance re-evaluated according to the terms of the remediation plan?