

Due Process and Grievance Procedures for Trainees

At UCSD CAPS we are committed to the professional and personal growth of each our trainees. We emphasize the on-going assessment and progress of each postdoctoral resident (with a minimum of written feedback occurring twice during the residency year) and strive to provide timely feedback within a developmental lens of the postdoctoral residency training year. We recognize the challenges which can occur with transitioning to being a clinician in the final year of training. Stress of completing a dissertation, while also finishing internship, and then often moving to a new city and then acquiring challenging clinical cases and managing crises, all while learning a new organizational system can be taxing and stressful. We therefore strive to be supportive and clear with training requirements, policies and procedures with a comprehensive orientation and trainings. We have each resident develop personal training goals with their primary supervisor and provide opportunities for professional development emphasizing the development and identity of a professional psychologist. We value and believe that timely and clear feedback which also provides suggestions and support for growth is essential. This is done at the primary supervisory level, secondary supervision, and by the training committee and training director.

Resident Rights: Postdoctoral Residents are entitled to a quality program that responds sensitively to potential difficulties which may occur during the training year. This includes assessment and timely feedback to remediate problem areas and allow for improvement when needed. During orientation residents receive clear statements and copies of the standards and methods by which they are evaluated.

Residents receive two hours of individual supervision per week, weekly group supervision and participate in a weekly case conference team. They also receive periodic secondary supervision within their area of outreach and consultation emphasis, as well as secondary supervision from their psychologist peers at the college where they are housed. During any and all of these situations residents are provided with informal verbal feedback about their performance. Residents also complete a self-evaluation which is shared with their primary supervisor for discussion and preparation for the formal evaluation. Formal written evaluations are conducted by the primary supervisors in which feedback from all of the above sources is solicited and summarized in the formal evaluation. These evaluations are reviewed with the resident who signs the evaluation form and is given the opportunity to provide a written response to the evaluation.

Residents also have the right to provide feedback and input about the training program. Regular meetings with the training director in both group and individual format allow the residents to make suggestions and discuss concerns with the training director. In addition, a program evaluation is provided at the mid point and end of the training year to allow written formal feedback of the program. Residents also evaluate their primary supervisors at both the mid point and the end of the training year.

This document outlines procedures and steps to ensure the due process rights of trainees.

Resident Responsibilities: Residents are expected to adhere to the APA Ethical Principles of Psychologists and Code of Conduct and the California Board of Psychology Laws and Regulations. In addition they are required to adhere to the UCSD CAPS policies and procedures. They must also demonstrate proficiency in the requisite clinical skills to carry out assigned tasks at CAPS and demonstrate an open and affirming attitude toward cultural and individual diversity. It is expected that they will participate in training provided by the program, continuing education activities provided for all staff, and at the end of the training year have achieved an average of “3” in each competency area, with no more than two scores of 2 and no scores of 1 on the Post-Doctoral Resident Evaluation. Furthermore, hours can ONLY be verified and approved if the trainee successfully meets all expected levels of competency requirements in the training program and completes the 12-month residency program. Partial verification of hours may be given in rare instances in which the trainee must leave the program prematurely, and has adequately demonstrated consistent application of competency requirements in the training program.

Evaluation of Inadequate Performance by a Postdoctoral Resident: As previously mentioned, all residents receive a mid-term formal evaluation and is one of the means by which inadequate performance may be identified. All competency areas should be rated at a level 3 (satisfactorily proficient) or higher at the end point evaluation. The mid-point evaluation may be one of the indicators of inadequate performance during the year which needs to be addressed. This would occur when a resident score is below 3 indicating inadequate performance. Lower scores (2 representing minimally proficient and 1 indicating no proficiency) signal that there are areas of competency which should be addressed. Additionally, any staff person may indicate concerns about a resident’s behavior which might be viewed as inadequate or problematic (e.g., ethical and legal violations, professionalism).

Defining Trainee Problematic Behavior: Problematic behavior is defined as an interference in professional functioning that is reflected in one or more of the following ways: (1) an inability or unwillingness to acquire and integrate professional standards and ethics into one's repertoire of professional behavior; (2) an inability to acquire professional skills and reach an acceptable level of competency; and (3) an inability to control personal stress, psychological dysfunction or emotional reactions which interfere with professional functioning.

Distinguishing Needs improvement from Problematic behavior affecting Functioning: While it is a professional judgment as to when a Trainee's behavior is considered behavior affecting professional functioning, rather than just problematic behavior in need of improvement, the latter refers to behaviors, attitudes, or characteristics, which,

while of concern and requiring development, are not unexpected or excessive for professionals in training. Problematic behavior affecting professional functioning, on the other hand, typically includes one or more of the following characteristics:

- 1) The Trainee does not acknowledge, understand, or address the problem when it is identified.
- 2) The problem or area of concern is not merely a reflection of a skill deficit which can be improved with academic or didactic training.
- 3) The quality of services delivered by the Trainee is negatively affected to a significant degree; or, as a result of the problem, the quantity of services falls short of the minimum required in the Traineeship Contract.
- 4) The problem is likely to be manifested in more than one area of professional functioning.
- 5) A disproportionate amount of attention by training staff is required by the Trainee.
- 6) The Trainee's behavior does not change as a function of feedback, setting individual training goals, applying a Supervisory Contract, and/or the passage of time.
- 7) The problematic behavior has potential for ethical or legal ramifications.
- 8) The Trainee's behavior negatively impacts the public view of the Service.

Addressing Inadequate Performance by a Postdoctoral Resident:

The training program has three formal action plans to respond to less-than-adequate trainee performance and requires a written Supervisory Contract which identifies the psychology professional competency benchmark (APA Competency Benchmarks in Professional Psychology, 2011) in which a problematic issue may be grounded, the behavioral description of the problems identified, and the specifics of the plan to address the problem.

The Developmental Action Plan (DAP)

The DAP can be formulated at the point when either Trainee conduct or performance needs improvement or development. This plan is usually in response to a supervisory issue or problem for which the supervisor has sought consultation with colleagues (i.e., in the Supervisors' Group). A Supervisory Contract can also be developed when a specialty or focus in training is desired.

During formal evaluation periods, a DAP would also be used when a Primary Supervisor has given a 2 as the average mean on any given category of the trainee's evaluation of

the health service psychology competencies. A 2 rating--" Minimal proficiency; Requires some improvement "--signifies a problematic aspect of professional competence, conduct, or personal functioning that needs improvement. The rating often indicates the Trainee needs more experience, education, and/or the problem requires special attention in supervision. While a Supervisory contract is usually required, individual training goals that address the issue would definitely be needed for the ensuing supervision period.

The Remedial Action Plan (RAP)

The RAP is instituted when there is a significant concern that at least one area of Trainee competence, professional conduct, or personal functioning, needs to be remediated. The perceived problem or deficiency is serious enough that it potentially could lead to a judgment of Trainee behavior affecting professional functioning. Initially the problem could be identified by the Trainee's Primary Supervisor or any other member of the training staff. In all cases the problem is addressed with the Trainee and brought to the Supervisors' Group or Training Committee for consultation. If a remediation action plan is recommended, it is written-up on a Supervisory Contract. The task of translating the plan into this contract is the responsibility of the Training Committee, which does so in conjunction with the Primary Supervisor and Trainee. The committee specifies the terms of the contract and also evaluates the Trainee's response to it.

During an evaluation period, a supervisory rating of 1 as the average mean on any given category would initiate an RAP. A 1 rating- "No proficiency; Serious problem in performance "-- would lead automatically to remedial action procedures. A one-rating indicates that the deficit is a serious one and a Supervisory Contract followed by close supervision and monitoring of the Trainee's work is mandatory.

The Probationary Action Plan (PAP)

The PAP is put into effect when a Trainee's professional behavior is affected to the degree that strongly suggests problematic behavior affecting professional functioning. This can occur under two circumstances: a) when the Training Committee believes there has been insufficient improvement in a Trainee's performance in response to a previous Supervisory Contract (RAP), and b) when a Trainee's performance deficit, professional misconduct, or personal dysfunction is striking or flagrant enough that a staff member decides to submit a formal complaint directly to the Training Committee. In both cases the Training Committee would use a Supervisory Contract to specify a probationary action plan (PAP), which includes some degree of modification or curtailment in the Trainee's professional activities with the Service (see probationary options below). These conditions would continue until the terms of the contract are fulfilled. If the Trainee's performance, as evaluated by the Committee, does not adequately improve to a sufficient standard, then his/her professional functioning would be judged as

problematic behavior. In cases of severe violations of the APA Code of Ethics and/or where imminent harm to a client, either physically or psychologically, is a major factor, the committee could recommend suspension, i.e. the withdrawal of all privileges involved with the Service, and dismissal as a CAPS Trainee and employee of UCSD. Final decision for suspension rests with the Director in consultation with persons deemed appropriate. If the Director decides to suspend the Trainee, written notification should be delivered to the Trainee within 24 hours.

Comparing the three administrative actions:

Once a problem is identified in supervision, all three plans involve consultation with the Supervisors' Group or Training Committee as the next step. When it is a Secondary Supervisor who has concerns about a Trainee's performance, s/he has the responsibility to give early feedback to the Trainee and Primary Supervisor as well as to consult with the Supervisors' Group and Training Director. This consultation often yields valuable input from other training staff who have worked with the Trainee.

At the DAP level of response, a solution or strategy which the Primary can take back to supervision with the Trainee is recommended. If discussion of the concern is sufficient or potential actions, as outlined on a Supervisory Contract, are agreed upon, then no further procedures are needed. Occasionally, when the supervisor is having a relationship problem with the supervisee, the Training Director will be invited by either party to serve as a mediator in the conflict.

When either a RAP or PAP is recommended, then development and implementation of the plan is turned over to the Supervisor, Supervisors' Group or Training Committee. The committee, as already discussed, would help the supervisor and Trainee translate the specifics of the plan into a Supervisory Contract, and later they would also evaluate the results. In the case of a PAP, if the Trainee is subsequently unwilling or unable to meet its terms, the committee would make a judgment of behavior affecting professional functioning and recommend final program options (see below). Next, the final judgment and recommendation would be submitted in writing to the Director of the Service for approval. If approved, the Trainee would be promptly informed of the decision.

All three plans allow for the Trainee to challenge any of the ratings, judgments, or decisions made by a staff member, supervisor, or by the Training Committee as a whole. In such cases an independent appeal panel would be formed to review the Trainee's case. Trainee appeal procedures are discussed more fully below.

Addressing Trainee Problematic Behavior: It is the responsibility of the Training Program to promptly address suspected problematic behavior affecting professional functioning once it has been identified. With a PAP, several possible and perhaps concurrent probationary actions can be initiated. These include but are not limited to the following:

- 1) Increase supervision, either with the Primary Supervisor or with others.
- 2) Change the format, emphasis, and/or focus of supervision.
- 3) Reduce the Trainee's service workload, and/or require specific didactic training or additional coursework, and/or strongly recommend personal therapy.
- 4) Recommend, when appropriate, a leave of absence.

As discussed above, any of these probationary options would be carefully specified on a Supervisory Contract, including the time-period allowed for improvement before the next evaluation is scheduled. If the problem is not rectified within the stated time-period, the contract should also specify final program actions. Such formal actions could include:

- 1) The Trainee is given a limited endorsement, including the specification of those settings in which s/he can or cannot function with the Service's endorsement.
- 2) The Trainee is informed that the traineeship has not been successfully completed and, therefore, no postdoctoral hours (or only partial time) can be certified. When appropriate, a second traineeship could be recommended.
- 3) A career shift can be recommended to the Trainee and assistance can be provided for implementation.
- 4) The Trainee may be terminated from the training program and any further work with the Service. As already indicated, this action could be recommended immediately by the Training Committee if a Trainee's misconduct is deemed grave or flagrant enough to do so.

All of the above steps need to be appropriately documented and implemented in ways that are consistent with the Trainee's right to due-process procedures. **Procedures need to be activated within two weeks of learning about trainee behavior.** It is expected that the above process be concluded following three months of initial discovery of trainee behavior.

Managing Situations Requiring Extended Absences: In the event of situations resulting in extended absences, and which might interfere with the delivery of clinical service,

reasonable efforts will be made to create a mutually agreeable solution to ensure fulfillment of the minimum time, training and competency requirements of the program are fulfilled. A written agreement of the plan will be created. In the event that the program requirements or Traineeship Contract are jeopardized, then the above policies and procedures regarding trainee problematic behavior will be followed.

Due Process: Due process procedures inform and provide a framework to respond or act in ways which are not arbitrary or personally biased. It requires that the Training Program identify specific evaluation procedures which apply to all trainees and provides appropriate appeals procedures. There will be a Notice, Hearing, and Appeal process (see below). General guidelines are as follows:

Due Process Guidelines

1. During the orientation period, residents will receive in writing CAPS expectations related to professional functioning.
2. The procedures for evaluation, including when and how evaluations will be conducted will be described. The evaluations will occur at a minimum of at least two written per year, the mid-point and end point of the training program.
3. CAPS staff will use input from multiple professional sources, when evaluating or making decisions about a resident's performance.
4. CAPS will communicate early and often with the resident, about identified difficulties, inadequate performance concerns or problematic behaviors, offering support, education, clarification and support for improvement if needed.
5. The trainee will be notified in writing about concerns of problematic behaviors and provided an opportunity to address these concerns in a formal meeting, if informal resolution has not been sufficient.
6. Procedures and actions involved in decisions regarding inadequate performance or problematic behaviors or trainee concerns will be described.
7. The Training Director will institute, when appropriate, a remediation plan, for identified inadequacies, which includes a time frame for expected remediation and consequences of not rectifying the inadequacies.
8. The Training Director will document in writing and provide to all relevant parties, the actions taken by the program and the rationale for all actions.
9. If a resident wants to institute an appeal process, this document describes the steps of how a trainee may officially appeal this program's actions. See below.
10. CAPS' due process procedures will ensure that trainees have sufficient time (as described in this due process document) to respond to any action taken by the program before the programs implementation.

Notice

As described above, competence problems will be clearly defined in writing with opportunities for discussion and clarification if needed. A remediation plan will be developed identifying inadequacies which will include a timeframe for expected remediation. Consequences for not rectifying the inadequacies within the expected

timeframe will be clearly stated in writing.

Hearing

A hearing is the formal meeting in which the trainee has the opportunity to hear and respond to concerns which have been identified prior to any decisions regarding remediation plans and decisions. This meeting will occur within 10 days of the written notice and include the trainee, the Training Director, their primary supervisor and a member of the training committee. This also provides the trainee an opportunity to provide input and their perspective, either verbally or in writing, to the identified problem. Hearing outcomes will be any of the above described plans (DAP, RAP or PAP) and communicated to the trainee in writing within 5 working days of the hearing.

Trainee Appeal Procedure

Procedures for how a trainee may appeal to the program's actions are included in the Postdoctoral Residence Training Handbook and reviewed at the beginning of the training year. The program ensures that trainees have sufficient time to respond to any action taken by the program and also considers multiple professional sources when making decisions or recommendations regarding a trainee's inadequate performance or competence problems. A Trainee has the right to appeal or challenge the evaluations and/or decisions of the training program at several different points:

During a formal evaluation period when the Trainee does not agree with, or is dissatisfied with the Primary Supervisor's ratings on their evaluation; or

When a staff member has submitted a complaint against a Trainee that has led to a RAP, or, if serious or flagrant enough, a PAP; or

In response to the Training Committee's RAP or PAP, or their formal evaluation of such.

If a resident does not agree with a written evaluation, they are encouraged to first discuss the nature of the disagreement with the supervisor who initiated the evaluation. If the situation is not resolved, the resident discusses the complaint with the Training director. The Training Director will then facilitate a meeting between the resident and the supervisor to resolve the disagreement. Residents should submit their request within 5 working days after the evaluation is finalized, and must identify the specific aspect of the evaluation with which the resident disagrees and must suggest what form of modification is requested.

If the situation is not resolved in the meeting with the Training Director and supervisor, a Review Panel will be formed within 10 working days, comprising three CAPS staff, usually the Training Committee (excluding the supervisor if s/he is a member) and the

resident may designate a member from the Senior Staff. The Review Panel will consider the grievance and work with the resident to resolve the situation. They will have 30 working days to provide a written summary of the panel's findings and any recommendations to the Training Director. The Training Director will communicate in writing to the resident in a timely manner. If the resident is dissatisfied with the findings, they may request in writing, within 5 working days, to be referred to the Director of CAPS. The Director of CAPS will consult and consider the grievance with the resident and will make a final recommendation about the resident's appeal. Once a decision is made, the resident and other appropriate individuals will be informed in writing.

If the resident challenges decisions made by the Training Director and or Training Committee such as in a remediation plan, the resident brings the grievance to the Director of CAPS within 5 working days in writing along with an explanation of the aspects of the plan with which they disagree and must suggest what forms of modification is requested. The Director will work with the resident to resolve the grievance and in consultation as needed. The Director will make final recommendations. Once a decision has been made, the resident and other appropriate individuals will be informed in writing.

Grievance Procedures:

If a resident has a complaint or grievance with a staff member or another resident, the resident is expected to follow the same procedures as other staff. First, it is suggested to discuss the matter with the person in question. If, for reasons of differences in power, this places the resident at risk, this step is bypassed.

The resident should then consult with a senior staff member for discussion of ways to reach a resolution. If resolution in this manner is not possible, the resident should discuss the issue with the Training Director. In the event that the grievance is against the Training Director, the resident will bypass this step and bring the matter to the Director of CAPS for consultation or resolution. The Director will consult as necessary.

The Training Director may initiate a conflict mediation process in order to resolve the complaint. The resident may choose to provide a formal, written complaint to the Training Director. In this case, the Training Director will have 10 working days from the receipt of the written complaint, to investigate along with the Training Committee, or other designated career staff, and to recommend appropriate actions. If the resident is dissatisfied with the recommendations made by the Training Director, they may submit an appeal within 5 working days to the CAPS Director. At this point, the Director will set up an Arbitration Committee which will have 10 working days to respond. If the resident wishes to appeal the Arbitration Committee's decision, then the resident will submit a letter of such, to the CAPS Director, who within 10 working days, will either then uphold the Committee's decision as final, or alternatively, conduct their own

investigation and render a final decision which will be final.

Racial or Sexual Harassment Procedures

The training program is committed to maintaining an atmosphere conducive to personal and professional development. This requires an environment in which each resident feels safe and respected. All complaints related to racial or sexual harassment will be handled in strict compliance with university procedures described in the University of California system-wide Policy on Sexual Violence and Sexual Harassment. This policy is available on-line at <http://policy.ucop.edu/doc/4000385/SVSH>.

The Office for the Prevention of Harassment & Discrimination (OPHD) is the University's Title IX office and oversees UC San Diego's responsibilities for compliance with the sexual violence and sexual harassment policy. They can be contacted at ophd@ucsd.edu or 858-534-8298.

Other Channels for Problem Resolution

There are numerous ways that a Resident can provide the program with immediate input or recommendations on an ongoing basis. Some of these are informal channels that exist within the weekly Case Review Team meetings, the General Staff and Process and Problem Solving meetings, along with the Training Committee. Trainees can exert an influence on the administrative decisions and general policy development of the Service. These are briefly described as follows:

Case Review Teams

While this group meets primarily to discuss intakes and ongoing therapy cases, issues concerning the training program, particularly those bearing on service delivery, can be raised by any staff member and informally discussed. If necessary, issues that require additional discussion and possible administrative action can be forwarded to the Supervisors' Group or the Training Committee.

Administrative Meetings

General issues dealing with the services delivery programs or general policy and procedures can be raised directly by Residents for discussion and possible administrative action in the biweekly General Staff Meeting. While final decisions on issues cannot always be reached in this meeting, they can be placed on the agenda of a future Process and Problem Solving Meeting. Alternatively, the issue can also be referred to an administrative Committee, such as the Training Committee, with a more specific mandate.

Formal Channels

The primary channels for making formal grievances regarding training or proposals for improvement are through Primary Supervision, the Training Director, and the Supervisors' Group.

Primary Supervisor and the Training Director

The primary supervisor is the system's most immediate resource person for the Resident. Weekly supervision is a time when suggestions, concerns, or general input regarding any aspect of the traineeship experience can be raised and discussed. For example, the primary supervisor normally should be the first person with whom to discuss possible changes in assignments, supervisors, or college placements. If for any reason this person is not appropriate or readily available for these matters, the Training director can act as the consultant or general ombudsman for the Trainee.

In the event there is a conflict between the Trainee and Primary Supervisor, the Training Director can be requested by both parties to mediate the dispute. Similarly, in the event that conflicts result in an impasse within the Trainee Support Group, the Training Director, another senior staff member, or an outside consultant can be invited by the Trainee to facilitate a resolution.

Another effective way for Residents to register a formal complaint or propose a specific change in the training program is to discuss it individually with the Training Director. Then, if necessary, the issue can be formally brought before either the Supervisors' Group or Training Committee.

Supervisors' Group and Training Committee

Issues or problems that deal more directly with the training program should be forwarded to the Supervisors' Group or the Training Committee by way of either the Trainee's Primary Supervisor or Training Director. Frequently these are issues that have been raised initially in other meetings and it was decided that some administrative action was needed. While the Primary Supervisor or Training Director would normally take responsibility for presenting the issue before these groups, there are times when one or more Residents may wish to present it themselves.