

## **DUE PROCESS AND GRIEVANCE GUIDELINES AND PROCEDURES Adapted from, and parts taken directly from, Stanford University's Counseling and Psychological Services at Vaden Health Center and the University of North Carolina at Chapel Hill's Counseling and Psychological Services**

Due process and grievance guidelines ensure that decisions made by the Moravian Counseling Center training program regarding trainees are not arbitrary or personally based, and are consistent with the accreditation standards provided by the American Psychological Association (APA). Being a trainee is a time of much growth, which entails receiving feedback throughout the year. Most concerns that arise with trainees are a normal part of the developmental training process, and will be addressed informally in supervision. Discussing problems and possible solutions are opportunities for professional growth. Likewise, we invite trainees to collaborate with staff in any remediation processes that may occur during the training year.

### **EVALUATION**

At the beginning of the academic year, trainees are given the training manual which includes the Counseling Center training program's policies and procedures, expectations of trainees and supervisors, etc. This can be found on the Counseling Center's Practicum Training Opportunities section of the website <https://www.moravian.edu/counseling/training> and in the shared Counseling Center Google drive.

Trainees are evaluated throughout the year. Trainees are formally evaluated twice a year (mid-year and end of the year) using their program's evaluation form which is completed by supervisors with feedback from other staff members. Individual supervisors then meet with each trainee to provide feedback and discuss the evaluation. Individual supervisors then have the opportunity to follow up with the trainee regarding expanded goal-setting, questions that may come up for the trainee, etc. Throughout the year, trainees receive ongoing feedback to provide validation of their strengths and to target areas/skills for further growth and in need of improvement.

If trainees receive any ratings below satisfactory in the mid-year feedback, the individual supervisor references the Due Process Guidelines for a thoughtful development of a remediation plan.

### **DEFINITION OF PROBLEMATIC BEHAVIOR**

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

It is a professional judgment as to when a trainee's behavior becomes problematic rather than as of concern. Trainees may exhibit behaviors, attitudes, or characteristics which, while of concern and requiring remediation, are not unexpected or excessive for professionals in training. Problems typically become identified when they include 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 is not merely a reflection of a skill deficit that can be rectified by academic or didactic teaching
3. The quality of services delivered by the trainee is sufficiently negatively affected
4. The problem is not restricted to one area of professional functioning
5. A disproportionate amount of attention by training personnel is required and/or
6. The trainee's behavior does not change as a function of feedback, remediation efforts, and/or time

## **PROCEDURES FOR RESPONDING TO INADEQUATE PERFORMANCE BY A TRAINEE**

The following procedures will be implemented if a trainee receives a rating below satisfactory on their formal evaluation or if staff have concerns about problem behavior.

1. The staff member will consult with the Director to determine how to proceed (for example, provide feedback and discuss with trainee in supervision or write a remediation plan) and continue to assess behavior in question for improvement.
2. If the staff member who brings the concern to the Director is not one of the trainee's supervisors, the Director and/or person with the concerns will discuss their concerns with the trainee's clinical supervisors to determine how to proceed.
3. If the Director and supervisors determine that the alleged behavior in the complaint, if proven, would constitute a serious ethical, legal, or clinical violation, the Director will inform the person who initially brought the complaint.
4. The Director will meet with supervisors to discuss the performance rating or the behavioral concern and possible courses of action to be taken to address the issues.

5. The Director and supervisors may meet to discuss possible courses of action.
6. Whenever a decision has been made by the Director about a trainee's status at the Counseling Center, the Director will inform the trainee in writing and will meet with the trainee to review the decision. This meeting may include the supervisors.
7. The trainee may choose to accept the conditions or may choose to challenge the action (see Due Process guidelines).
8. The Director or supervisors may consult with the trainee's Director of Clinical Training from their doctoral program at any time.

## **GUIDELINES FOR ADDRESSING PROBLEMATIC BEHAVIORS**

The remediation guidelines below are intended to address a trainee's unsatisfactory performance and/or other problematic behaviors. The Counseling Center reserves the right, in its sole discretion, to determine the appropriate remedial action, up to and including immediate dismissal from the training program, as are necessitated by the individual facts of a particular case. At any time during the year, a Counseling Center staff member may designate some aspect(s) of a trainee's progress, performance, and/or behavior as "unsatisfactory for an intern in training" and "needs remediation." One or more of the following procedures will be initiated according to the level of unsatisfactory progress and/or problematic behavior. In addition, as noted above, the Counseling Center may also communicate with the trainee's graduate program regarding any unsatisfactory/problematic behavior and remediation procedures implemented by the Counseling Center.

**A. Verbal Warning:** Direct communication and verbal warning to the trainee identifying the unsatisfactory behavior and/or the need to discontinue the problematic behavior.

Example: A meeting is scheduled with the trainee, Director and/or supervisors to discuss the trainee's failure to submit progress notes in a timely manner, or the trainee's tardiness to meetings or work.

No record of this action is kept in the trainee file.

**B. Written Acknowledgement:** Written acknowledgement to the trainee formally stating:

1. That the Director and supervisors are aware of and concerned about unsatisfactory progress and/or problematic behavior;
2. That the concerns have been brought to the trainee;

3. That the Director and/or supervisors will work with the trainee to rectify the skill deficit and/or problem behavior and;
4. That the skill deficit and/or problem behaviors are not significant enough to warrant more serious action at present time, but that if the deficit and/or behavior continues, or if additional performance or behavioral issues arise, additional action may be warranted, up to and including dismissal from the training program.

Example: Three months into the training year, a trainee demonstrates an ongoing skill deficit in determining appropriate goals for therapeutic work with clients. A plan is agreed upon that requires additional reading and focus in supervision so that the trainee can “catch up” to a level of competency consistent with her/his level of training.

The written acknowledgement may be removed from the trainee file when the trainee responds to the concerns and successfully completes the training year.

**C. Written Warning:** Written warning to the trainee indicates the immediate need to address unsatisfactory progress and/or discontinue problematic behavior. The written warning will contain:

1. A description of the trainee’s unsatisfactory progress and/or problematic behavior;
2. Specific actions required by the trainee to address unsatisfactory progress and/or correct problematic behavior;
3. The timeline for addressing the area of concern; and
4. What action will be taken if the unsatisfactory progress and/or problematic behavior is not corrected
5. Notification that the trainee has the right to request a review of this action.

Example: A trainee consistently violates a specific Counseling Center policy or procedure or does not adequately address areas of unsatisfactory progress and/or problematic behavior specified in the Written Acknowledgement.

A copy of this letter will be kept in the trainee’s file. Consideration may be given to removing this letter at the end of the training year by the Director in consultation with the supervisors and the trainee’s supervisors.

**D. Schedule Modification:** Schedule modification is a time-limited, remediation-oriented, closely supervised period of training used to assist the trainee in overcoming unsatisfactory progress and/or problematic behavior, often associated with

personal reactions to environmental stress, with the full expectation that the trainee will complete the training year. This period will include more closely scrutinized supervision conducted by the regular clinical supervisors in consultation with the Director. Any element of the training program is subject to schedule modification. Schedule modification may include, but is not limited to:

1. Increasing the amount of supervision, either with the same or other supervisors;
2. Changing the format, emphasis and/or focus of supervision;
3. Recommending personal therapy;
4. Reducing or otherwise modifying the trainee's clinical or other workload;
5. Requiring specific didactic activities.

The Director in consultation with the clinical staff, and/or individual supervisor(s) will determine the length of the schedule modification period. Generally, the documentation will include the reasons for the schedule modification, the actions taken, and the basis for a decision to return to a normal schedule. This documentation will be kept in the trainee's file. The termination of the schedule modification period will be determined, after discussions with the trainee, by the Director in consultation with the clinical staff and the trainee's supervisors.

**E. Probation:** Probation is also a time limited, remediation-oriented, closely supervised training period. Typically, probation is a response to unsatisfactory progress and/or problematic behavior that requires the training staff to assess the ability of the trainee to successfully complete the training year. The purpose of probation is to clearly identify and define the problem area and to specify what needs to be done to improve the trainee's performance or behavior. During probation, the Director, in consultation with appropriate supervisor(s), systematically monitors for a specific length of time the degree to which the trainee addresses, changes, or otherwise improves the unsatisfactory progress and/or problematic behavior. The trainee is informed of the probation in a written statement that includes:

1. The specific skill deficits and/or problematic behaviors that need remediating;
2. The recommendations for rectifying the problem, including any recommendations for personal therapy and/or professional development, as deemed appropriate;
3. The time frame for the probation during which the problem is expected to be ameliorated;

4. The procedure to ascertain whether the problem has been appropriately rectified; and
5. The consequences of not ameliorating the identified performance or behavior issues

A copy of this statement will be kept in the trainee's file.

Example: Trainee evaluations in one or more of the major competency areas reflect significant skill deficits inconsistent with level of training and/or expected level of development, supervisor(s)' reports indicate consistent significant lapses in ethical or professional judgment, or client care is jeopardized based on the decisions and/or behaviors of the trainee.

**F. Notice of Insufficient Improvement:** If the Director determines, in consultation with the appropriate supervisor(s), that there has not been sufficient improvement in the trainee's progress and/or behavior to remove either the schedule modification or probation, the Director and the clinical staff will discuss possible courses of action to be taken. The Director will communicate in writing to the trainee that the conditions for revoking the probation or modified schedule have not been met, and a copy of this will be kept in the trainee's file. This notice will include the course of action the Director has decided to implement. These may include continuation of the remediation efforts for a specified time period, or any of the following:

**G: Suspension of direct service activities:** This requires a determination that the welfare of the trainee's clients has been jeopardized. Therefore, direct service activities will be suspended for a specified period as determined by the Director in consultation with the supervisors. At the end of the suspension period, the trainee's supervisors in consultation with the Director will assess the trainee's capacity for effective functioning and determine when direct service can be resumed. Documentation regarding suspension of direct service activities will be kept in the trainee's file.

**H. Administrative leave:** This involves the temporary withdrawal of all responsibilities and privileges at the Counseling Center, and will be documented in the trainee's file. It will also be noted if the probation period, suspension of direct service activities, or administrative leave interferes with the successful completion of the training hours needed for completion of the training year.

**G. Dismissal:** Generally, the above guidelines are intended to aid the trainee achieving expected competencies for their level of development and their training goals. Dismissal involves the permanent withdrawal of Counseling Center responsibilities and privileges. When specific interventions do not, after a reasonable time period, remedy the problematic behavior or concerns and the trainee seems unable or unwilling to alter her/his behavior, the Director will consult with the supervisors about the possibility of

termination from the training program. Either administrative leave or dismissal would be invoked in cases of severe violations of the APA/ACA code of ethics, or when imminent physical or psychological harm to a client is a major factor, or major disruption to other people in the training program or Counseling Center staff, or the trainee is unable to complete the training year due to physical, mental, or emotional illness. Trainees who are dismissed prior to their completion of the program as a result of unsatisfactory progress and/or other problematic behaviors will receive a written dismissal notice, which will include the actions resulting in the dismissal and, if applicable, any previous attempts to address the concerns.

### **DUE PROCESS: GENERAL GUIDELINES**

Due process ensures that the training program's decisions about trainees are not arbitrary or personally based. Specific evaluative procedures apply to all trainees, and appeal procedures are available for trainees who wish to challenge the program's actions. All steps need to be appropriately documented and implemented. General guidelines are as follows:

1. The training program's expectations related to professional functioning are presented to trainees in writing and discussed both in group settings and with individual supervisors.
2. Formal evaluations occur with each supervisor at specified times. Evaluation is a mutual process (with trainees evaluating supervisors and supervisors evaluating trainees) and meant to be a learning experience for both.
3. Problematic behaviors or concerns are clearly defined in writing and opportunities for discussion and clarification are provided if necessary.
4. Trainees are informed of due process procedures and written policies for appealing actions of the program when warranted.
5. The training program will institute a remediation plan for identified inadequacies, including a time frame for expected remediation. Consequences of not resolving the inadequacies will be clearly stated in writing.
6. The training program ensures that trainees have sufficient time to respond to any action taken by the program.
7. The training program considers multiple professional sources when making decisions or recommendations regarding a trainee's inadequate performance.
8. The training program documents the action taken by the program and its rationale, and provides this documentation to all relevant parties.

### **DUE PROCESS: PROCEDURES**

The intent of due process is to inform and provide a framework to respond, act, or dispute. When a matter cannot be resolved between a supervisor and intern, the steps to be taken are listed below.

## **GRIEVANCE PROCEDURES**

There are two situations in which grievance procedures can be initiated.

1. An intern can challenge an evaluation report by their supervisors or a complaint from another party or actions recommended by the supervisors. They can elect to attempt to resolve this informally or formally; both sets of procedures are detailed below.
2. A trainee may have a complaint against a Counseling Center staff member

### **Informal trainee challenge**

If a trainee is dissatisfied with supervisors' evaluations or disagrees with a complaint from another party, he or she may request a special meeting with the Director. The review meeting will include the Director and any staff involved in the dispute. The trainee may invite other staff members to assist or present additional information. Possible actions include but are not limited to:

- a) Acceptance or modification of the supervisors' evaluations
- b) Specific changes in the remediation program
- c) Change of supervisor, and/or
- d) Addition of another supervisor

If the trainee remains dissatisfied they can institute a formal challenge.

### **Formal trainee challenge**

If the trainee wishes to formally challenge any action taken by their supervisor, the trainee must, within 5 work days of the receipt of the Director's decision, inform the Director in writing of their challenge. When a challenge is made, the trainee must provide the Director with information supporting the trainee's position or concern. Within 3 work days of the receipt of this notification, the Director will consult with the other supervisors and will implement procedures as described below.

### **When an trainee has a complaint against a Counseling Center staff member**

The training program recognizes that unanticipated problems may occasionally arise between trainees and other Counseling Center staff. The problem-solving procedures described below are intended to address these problems.

- 1) A trainee who has a concern with a Counseling Center staff member or supervisor is first encouraged to raise the issue through direct communication with the staff member or supervisor if possible and appropriate.
- 2) If direct communication with the Counseling staff member or supervisor is not possible or appropriate, or if the trainee makes an attempt to address the issue directly but is unable to resolve the issue, he or she is encouraged to bring the issue to the Director.
- 3) If no solution is identified, if the identified solution is unsuccessful, or the situation is still not resolved to the satisfaction of the trainee, the trainee can call for a meeting with the Vice President for Human Resources, Jon Conrad, 610-861-1527, to discuss the situation.

If there are extenuating circumstances that make these timelines or procedures unattainable, the involved parties will be notified in writing.

### **OTHER UNIVERSITY RESOURCES FOR ADDRESSING TRAINEE CONCERNS**

A. Moravian University aspires to be a welcoming and inclusive community that embraces and values the diversity of all members of the campus community. We strive to accept the uniqueness of all individuals, and we cultivate an environment that respects, affirms, and defends the dignity of each member of our community. We are committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation.

To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, Moravian University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. We strive to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved. For more information about the Equal Opportunity, Harassment, and Non-Discrimination Policy and the Resolution Process for alleged violations of the policy on Equal Opportunity, Harassment, and Non-Discrimination Policy under the scope of Title IX (known as "Process A"), please read here:

<https://www.moravian.edu/policy/harassment-discrimination>

Moravian University adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education. The University does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived race, ethnicity, color, sex, religion, age, ancestry, national origin, caste, sexual orientation, gender identity or expression, genetic information, pregnancy, familial status, marital status, citizenship status, veteran/military status, disability status, or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

Moravian University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under this policy, but may be addressed through other applicable institutional policies, as well as through education, remedial actions, conflict coaching, mediation, shuttle negotiation, facilitated dialogue, restorative practices, and/or other alternate resolution mechanisms. The University's [Bias Response and Intervention Team](#) (BRIT) is available to assist and respond to these types of concerns.

Moravian University acknowledges the power dynamics inherent in many of our campus relationships and asserts specific expectations regarding intimate/sexual relationships between employees and students and between supervisors and subordinates. These expectations are outlined in more detail in the [Employee Handbook](#) (Section 10.13 “Student/Employee Relationships” and Section 10.14 “Employee Relationships”).

Moravian University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

The Executive Director for Equity and Compliance (Title IX Coordinator) may be consulted as a resource: Leah M. Naso at 610-861-1529.

B. Please read here about Moravian University’s Bullying Policy and the institutional channels instances of bullying may be reported.

<https://www.moravian.edu/policy/bullying-policy>

