

Due Process and Emergency Medicine Education

A Primer for Program Leadership

CORD Academic Assembly 2019

What is due process?

In the setting of a medical practice at a hospital, due process means clinicians will not lose their rights, including medical staff privileges, without access to a fair procedural process.

What must it include?

- a fair hearing by a group of physician peers
- protections for regular, predictable, and fair shift scheduling
- in the setting of a residency program, consideration for the importance of maintaining a robust training environment

Where does it come from?

U.S. Constitution, Health Care Quality Improvement Act (HCQIA), Joint Commission, AMA Code of Medical Ethics, AAEM Position Statement, ACEP Physician Rights and Responsibilities

Why is the lack of due process an issue in emergency medicine?

There are different employment models for emergency medicine faculty in training programs. In some models, it is common that physicians waive their due process rights in their contracts.

Why is this important?

Emergency physicians are part of medicine's safety net. We have a duty to advocate for patients when doing so may conflict with the interests of other parties. We also have a duty to our trainees to ensure the academic integrity of a residency program is maintained.

Why are we discussing this now?

Program upheaval can occur due to natural disasters or as the result of transition of contracts between groups. There is a significant potential to adversely impact patient care as well as resident education. Due process for faculty must be protected to maintain high standards of care and the integrity of residency programs. The program itself, an institution's GME enterprise and the trainees may all be affected when due process is threatened.

Employment Models in EM

Program faculty are assigned roles/ duties as members of a larger clinical provider group

Who are the players?

Traditional university model:

individual docs – academic group – hospital

Some community settings:

individual docs – contract holder – hospital

What happens when the contract is lost or some other disruption occurs?

Did you know?

62%

Of emergency physicians report they can be terminated without due process (JEM, 2013)

CORD DUE PROCESS TASK FORCE

Who are the groups affected and what do we recommend?

Individual Faculty:

1. Individual physician groups, hospital and university employers, and other contract holders should not include due process waivers in the contracts of EPs.
2. The RRC could mandate due process protections for individual faculty as a requirement for accreditation of a residency program.
3. Organized medicine should consider supporting a standard to protect faculty practice plans (ie, long term commitment to a group).



Residency Programs:

1. Programs/institutions should formalize provisions to maintain a robust training environment in the event of transition.
2. New EM groups should comply with ACGME requirements and this should be included in their RFP for a contract. New groups should be able to continue the educational mission of a program.
3. ACGME should create common program requirements for programs undergoing transition.
4. Residents should be educated about the importance of due process and its impact on their education and career.



Students and Residents:

1. There should be a resource available for EM residents during times of disaster or program transition.
2. Programs should openly share faculty and trainee funding source information with applicants/residents. Transparency about: contracts, staffing models, payments. Candidates should ask about this.
3. Hospitals and training programs should revise existing disaster response plans to include how they will manage the institution's educational mission.

