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## INSTITUTE FOR MULTICULTURAL COUNSELING & EDUCATION SERVICES

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### **Due Process and Remediation of Problematic Performance**

#### Philosophy and Purpose

Our philosophy is based on the humanistic and existential reality that error is inevitable. Therefore, we accept error and welcome the identification of error along with developing a plan of corrective action, based on the principle of transparency for the benefit of self and others. Our approach is preventative rather than reactive, which leads to punitive action. Our Due Process and Remediation of Problematic Performance is designed to promote professional values, attitudes, and behavior with effective communication and interpersonal skills. The process includes the opportunity to raise awareness and knowledge by providing additional information and education (values, attitudes); facilitating corrective action (behavior); to be implemented through a collaborative structure that supports interns toward the successful completion of their clinical training program at IMCES (effective communication and interpersonal skills).

Our Due Process includes three components:

- Supporting increased self-awareness, including growth oriented personal therapy, as applicable
- Increasing knowledge base
- Infrastructure to monitor and support reaching successful outcome

Our infrastructure is designed to address the error at the onset and provide constructive feedback in the context of individual and group supervision, and group meetings, from supervisors, peers, and other professionals in a supportive environment. In case a problematic behavior continued as a pattern IMCES would initiate the following formal Due Process procedures. Accordingly, the preventative measures result in only rarely needing to use the Due Process.

These would be strategically incorporated on a case-by-case basis with relevancy to address the individual concern. Our Policy on Error and Due Process are embedded as a part of our operational protocol to be a signed agreement at the point of entry into our doctoral clinical training program.

This document provides doctoral interns a definition of problematic performance, along with an explicit discussion of the due process procedures.

#### Due Process

Due process ensures that decisions about interns are not arbitrary or personally based. It requires that the Training Program identify specific evaluative procedures which are applied to all interns, and make appropriate appeal procedures available to the doctoral intern. All steps are appropriately documented and implemented. General due process guidelines include:

A. Definition of Problematic Performance: Problem behaviors are said to be present when supervisors perceive that an Intern's competence, behavior, attitude, or other characteristics significantly disrupt the quality of his or her clinical services; his or her relationship with peers, supervisors, or other staff; or his or her ability to comply with appropriate standards of professional behavior. It is a matter of professional judgment as to when such behaviors are serious enough to constitute "problematic performance." Of course any

violation of law or ethics would certainly be frames as “problematic performance” (e.g., a HIPAA violation in the context of our practice) and would automatically require a formal remediation plan, including probation.

B. Informal Staff or Intern Complaints: Supervisory staff and/or Interns are encouraged to seek informal redress of minor complaints directly with the other party, or by using a mentor or the training director as go-betweens. Such informal efforts at resolution may involve the Training Director as the final arbiter. Failure to resolve issues in this manner may eventuate in a formal performance or behavior complaint or Intern complaint, as the case may be, following the procedures outlined below. Should the matter be unresolved and become a formal issue, the Intern is encouraged to utilize the assigned supervisor, or in the case of conflict of interest, another supervisor, as a consultant on matriculating the formal process.

II. Procedures for Responding to Problematic Performance: When it is identified that an Intern’s skills, professionalism, or personal functioning are problematic, the Training Committee, with input from other relevant supervisory staff, initiates the following procedures:

A. The negative evaluation(s) will be reviewed with discussion from the Training Committee and other supervisors and a determination made as to what action needs to be taken to address the problems identified.

B. After reviewing all available information, the Training Committee may adopt one or more of the following steps, or take other appropriate action:

1. The Training Committee may elect to take no further action.
2. The Training Committee directs the supervisor(s) to provide constructive feedback and methods for addressing the identified problem areas. If such efforts are not successful, the issue will be revisited by the Training Committee.
3. Where the Training Committee deems that *remedial* action is required, the identified problematic performance or behavior must be systematically addressed. Possible remedial steps include (but are not limited to) the following:
  - a. Increased supervision, either with the same or other supervisors.
  - b. Change in the format, emphasis, and/or focus of supervision.
  - c. Change in or adjunctive training experiences
  - d. A recommendation and/or requirement that growth oriented personal therapy is undertaken with a clear statement about the issues to be addressed by treatment, such as boundaries, addiction, or poor judgment.
  - e. Recommendations of a leave of absence (with time to be made up at no cost to IMCES).
4. Alternatively, depending upon the gravity of the matter at hand (e.g., a violation of law or ethics, such as a HIPAA or client related violation), the Training Committee may issue a formal Remediation Plan which specifies that the committee, through the supervisors and Training Director, will actively and systematically monitor for a specific length of time, the degree to which the Intern addresses, changes, and/or otherwise improves the problem performance or behaviors. The Probation Notice is a written statement to the Intern. The Intern’s signature is required; however, in the case of the Intern refusing to sign the Probation Notice, this does not affect the probationary status. The Probation Notice includes the following items:
  - A description of the problematic performance behavior.
  - Specific recommendations for rectifying the problems.
  - A time frame for the probation during which the problem is expected to be ameliorated.

- Procedures to assess concurrently whether the problem has been appropriately rectified.

5. Following the delivery of a *formal Remediation Plan notice*, the Training Director will meet with the Intern to review the required remedial steps. The Intern may elect to accept the conditions or may appeal the Training Committee's actions.

Once the Training Committee has issued an acknowledgement notice of the Remediation Plan, the problem's status will be reviewed within the time frame indicated on the Remediation Plan, or the next formal evaluation, whichever comes first.

D. Failure to Correct Problems: When the defined intervention does not rectify the problematic performance within the defined time frame, or when the Intern seems unable or unwilling to alter his or her behavior, the Training Committee may need to take further formal action. If an Intern on probation has not improved sufficiently to rectify the problems under the conditions stipulated by the Probation Notice, the Training Committee will conduct a formal review and then inform the Intern in writing that the conditions for revoking the probation have not been met. The Committee may then elect to take any of the following steps, or other appropriate action:

1. Continue the Remediation Plan for a specified period of time.
2. Inform the Intern and the Training Director that the Intern will not successfully complete the doctoral clinical training program if his/her problematic performance does not change. If by the end of the training year, the Intern has not successfully completed the training requirements, the Training Committee may recommend that the Intern not be graduated. The Intern will then be informed that he/she has not successfully completed the program. The Training Committee may specify to the graduate program those settings in which the former Intern can and cannot function adequately.
3. Inform the Intern that the Training Committee is recommending to the Training Director that the Intern be terminated immediately from the program, and the Training Director move to terminate the Intern from the program.
4. When the Training Committee determines that a Intern is not suited for a career in professional psychology, the committee may recommend a career shift for the Intern, and withhold endorsement for professional practice should the Intern later seek licensing in any jurisdiction.

All of the above steps will be appropriately documented and implemented in ways that are consistent with due process.

In addition, we are open to receiving feedback from Interns based on the same philosophy to make the needed appropriate adjustments in our conducting of the training program.

By signing below, I affirm that I have read and understood the Due Process and Remediation of Problematic Performance and that, based on the principle of transparency, the process is not confidential.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name