Due process ensures that decisions made by the Mailman Center faculty about postdoctoral associates are not arbitrary or personally based. Postdoctoral associates will be notified of all specific evaluative procedures which are applied to all trainees, and have appropriate appeal procedures available to the employee so he/she may challenge the program’s action.

General due process guidelines include:
1) providing in writing the program’s expectations related to professional functioning,
2) stipulating the procedures for evaluation, including when and how evaluations will be conducted,
3) providing in writing the various procedures and actions involved in making decisions regarding problem, communication, early and often, with the postdoctoral associate about any suspected difficulties,
5) instituting a remediation plan for identified inadequacies, including a time frame for expected remediation and consequences of not rectifying the inadequacies,
6) providing a written procedure to the postdoctoral associate which describes how the employee may appeal the program's action,
7) ensuring that postdoctoral associates have sufficient time to respond to any action taken by the program,
8) using input from multiple professional sources when making decisions or recommendations regarding the postdoctoral associate’s performance, and
9) documenting, in writing and to all relevant parties, the action taken by the program and its rationale.

MISCONDUCT POLICY:

It is the policy of the University of Miami (“University”) to address employee misconduct and/or behavioral issues by administering the appropriate type of discipline sufficient to prevent a recurrence of such inappropriate behavior or misconduct. Furthermore, it is the University’s policy to issue any discipline deemed warranted in a fair and equitable manner. This policy shall not be considered or interpreted to create a progressive discipline process. The University reserves the right to determine the appropriate disciplinary action to be issued based upon the nature of the offense. This policy shall apply to all University postdoctoral associates.

PROCEDURE:

I. IDENTIFYING MISCONDUCT AND/OR BEHAVIORAL ISSUES
A. ROLE OF SUPERVISOR

It is the faculty supervisor’s responsibility to promote a values and performance-based culture. To achieve this, faculty supervisors must communicate expectations to postdoctoral associates, set goals and objectives that are well defined and measurable, plan and assign work, and establish standards and deadlines for accomplishing said work. Supervisors should regularly meet with postdoctoral associates to provide constructive feedback on performance and to avoid or lessen the occurrence of misconduct and/or performance issues.

B. INVESTIGATIONS

Generally, employee misconduct and behavioral issues are most commonly observed by a supervisor. However, there are instances where such behavior is observed or discovered as a result of a third party (i.e., postdoctoral associates in another department; as a result of an investigation, etc.). In such cases, the employee’s supervisor must be advised of the behavior in question so that the matter can be reviewed and a determination made as to the appropriate disciplinary action to be administered. Such a determination may require an investigation to be performed by the employee’s supervisor or Human Resources.

In cases where the employee’s presence at work may interfere with the investigation or pose a threat to others, the employee in question may be placed on administrative leave with pay pending the outcome of the investigation, in accordance with Section III.A. below.

C. EXAMPLES OF MISCONDUCT OR DEVIATIONS FROM STANDARD PRACTICES

The following consists of examples of misconduct/deviations from standard practices which could result in disciplinary action, up to and including termination of employment. These examples are not meant to be an exhaustive list of all infractions. Other actions not specifically listed may also result in discipline, up to and including termination of employment.

• Behaviors that violate the APA’s code of ethics for professional practice standards
• Behaviors that violate the laws and regulations governing the practice of psychology by the Florida Board of Psychology
• Excessive absenteeism, tardiness and/or unexcused absences.
• Failure to comply with the University’s policies, procedures, regulations and work rules or directives.
• Insubordination or refusal to follow instructions of supervisor or department head.
• Offensive or disruptive behavior, including threatening postdoctoral associates, students, patients, or visitors, using abusive or vulgar language, interfering with others in the performance of their duties, or acting in an immoral or indecent manner on the University’s premises, or while off the University’s premises in performance of job-related duties.
• Disorderly conduct on the University’s premises, including but not limited to violence, fighting, horseplay or other action that endangers others or University property. Unauthorized use or negligence resulting in destruction, defacement, or misuse of University vehicles or property, or property of another person on University premises.
• Destruction, falsification, or omission of information on employment records, University records, or in connection with the employee’s duties. This includes falsification of payroll and/or time records.
• Loitering, loafing or sleeping during work hours, or while on University premises during a meal break, rest period, and before/after work shift.
• Illegal or immoral conduct on or off University premises or action which would bring unfavorable attention to the University and is inconsistent with the University’s common purpose and/or values and behaviors.
• Failure to disclose an arrest or conviction occurring after the date of hire.
• Unauthorized possession, use, copying, removal, access and/or disclosure of confidential information, trade secrets or other proprietary information (including information contained in personnel records).
• Unauthorized access or use of University computing, telephone/voice mail systems, hardware or software.
• Obtaining a leave of absence or other University benefit under false pretenses.
• Failure to report to work upon the expiration of an approved leave of absence.
• Concealing or having possession of any weapons, firearms, or explosives while on University premises.
• Use, consumption, possession, distribution, and/or sale of controlled substances and/or alcohol on the University’s premises or while operating the University’s equipment; reporting for duty under the influence of alcohol and/or controlled substances, or otherwise violating the Drug Free Workplace Policy.
• Unauthorized removal of University property or theft of University property; or that of other postdoctoral associates, patients, visitors or students.
• Any willful act, careless act, or conduct detrimental to University operations or the safety and rights of other persons on University premises.
• Failing to pay personal traffic and parking citations obtained while operating a University vehicle.
• Failure to work assigned schedule.
• Failure to cooperate in an investigation conducted by or on behalf of the University or providing false statements in the course of an investigation.
• Unauthorized use, disclosure, viewing, or accessing of patient information and/or protected health information as defined in applicable state and federal laws, including the Health Insurance Portability and Accountability Act (“HIPAA”). Such violations of HIPAA include, but are not limited to the following:
  - Accessing and disclosing patient information to an unauthorized third party;
  - Viewing of patient information without business necessity;
  - Misappropriation of patient’s identify in connection to fraudulent activities;
  - Discussion of patient information in a public area;
  - Disclosure or sharing of passwords for employee profiles with access to protected health information, or the use of someone else’s password for a profile with access to protected health information;
  - Storing patient information on a personal electronic device not managed or approved by the University for such use;
  - Leaving computers or other portable devices with patient information unlocked or unattended;
  - Transporting patient information in an unsecured manner;
  - Failing to report a potential or known breach of HIPAA security and privacy;
  - Negligence in mailing, faxing, or emailing patient information, resulting in the release of patient information to the wrong recipient;
  - Negligence in accessing patient information.

• Improper application for, misuse of, or converting a University benefit or privilege for personal gain of employee, or for the benefit of others ineligible to receive such a benefit or privilege.
• Failure to disclose a consensual relationship as required by University policy.
• Any action adversely affecting a license or other credentials necessary to perform the responsibilities of one’s position.
• Failure to comply with established safety and health rules and safe work procedures or engaging in any conduct that creates a safety hazard.
• Falsely stating claims of injury.
• Dishonesty, including but not limited to intentionally not providing full and truthful information when requested by management.
• Bringing, discharging, and/or possessing unauthorized firearms or other weapons while on the University’s premises, or on your person in the performance of job-related duties.
• Misappropriation of funds handled or received on behalf of the University.
• Failure to attend training, as directed

II. DUE PROCESS NOTICE

All postdoctoral associates are expected to demonstrate behaviors consistent with the American Psychological Association’s Code of Ethics and University’s values and service standards. Where an employee does not exhibit these values and/or standards, the University may take appropriate action in the form of disciplinary action based upon the facts and circumstances in question.

In the event that a problem develops for an employee, the following procedures shall be used to resolve this conflict before the involvement of Human Resources. However, some types of misconduct or deviations from standard practice may require the immediate involvement of Human Resources in order to be compliant with University policy. Training issues related to competence and professionalism are typically managed within the training program between faculty supervisors and trainees before there is any need of Human Resources Involvement.

Notice of Informal Performance Enhancement Plan: Faculty Supervisor perceptions of the postdoctoral associates’ possible misconduct/deviations from standard practice may take several forms. The first step is for the faculty supervisor to meet with the postdoctoral associate to discuss the perceived concern. It is expected that the supervisor and faculty supervisor will collaboratively develop an informal performance enhancement plan that is inclusive of the postdoctoral associate’s feedback regarding how supervisors can support improvement in performance. The faculty supervisor and postdoctoral associate will document this plan in writing and the plan will be shared with one another via email. The plan will include time-based benchmarks to monitor postdoctoral associate progress and support from the supervising faculty member. All trainees’ progress is regularly reviewed at monthly faculty meetings, where other faculty supervisors and the training director can provide additional feedback that may improve trainee performance.

Notice of Formal Training Program Performance Enhancement Plan: In the event that the performance enhancement plan does not result in postdoctoral associate’s improved performance within a previously agreed upon time frame, the second step in due process involves the training director meeting with the postdoctoral associate and the faculty supervisor. This may involve meeting with the postdoctoral associate and the supervisor to (a) objectively identify the problem, (b) determine steps to resolve the problem, and (c) evaluate the effectiveness of the performance enhancement plan. Postdoctoral associates will be notified of this meeting via email and a meeting time will be established that works for all parties. A written summary with proposed steps for resolution will be drafted by the primary
supervisor and forwarded to the Director of Postdoctoral Fellowship Training. If the problem involves the postdoctoral associate’s primary supervisor, the Director of Postdoctoral Fellowship Training or the Division Chief will serve the role as primary supervisor. In cases of serious (e.g., ethical or legal violations, professional incompetence, psychological factors seriously impacting professional functioning), the Director of Training will be involved immediately. The Training Program Performance Enhancement Plan is a written summary of training goals/objectives with specific steps that the postdoctoral associate needs to take with specific timeframes outlined for specific goals. Once the plan is agreed upon, the postdoctoral associate, the faculty supervisor, and the training director each sign off on the plan. The signed plan is shared via email to the postdoctoral associate, the faculty supervisor, and the training director and a copy of the plan is saved in the postdoctoral associate’s training file. The Training Program Performance Enhancement Plan is reviewed at a minimum on a monthly basis. However, the specified aspects of the plan may require benchmarks that need to be met on a weekly basis (e.g., submission of timely documentation) that require weekly review by the faculty supervisor. If the trainee meets the goals/objectives within the performance enhancement plan, the trainee will be informed in writing that he/she has successfully completed the plan and record of this will be kept in the postdoctoral associate’s file.

III. DUE PROCESS HEARING

Procedure if the person of concern is the Training Director: In the event that the person of concern is the training director, the postdoctoral associate may select another faculty member of his/her choice within the Division of Clinical Psychology to serve the roles of the Training Director listed in the subsequent sections.

Postdoctoral Associate Hearing and Establishment of a Remediation Plan: If this step is not successful in resolving the perceived misconduct/deviation from standard practice, then a committee consisting of the postdoctoral associate’s primary supervisor, the Director of Postdoctoral Fellowship Training, and a third faculty member selected by the postdoctoral associate will convene (at a time that works for all parties) to re-evaluate the problem and develop an additional plan for problem resolution. If the problem is an interpersonal conflict between the postdoctoral associate and a supervisor, an alternative supervisor or clinical rotation can be arranged. If the problem relates to an postdoctoral associate’s clinical or ethical competence, then the committee will establish concrete criteria for remediation. This may involve: increasing the amount of supervision or modifying supervision structure; recommending personal therapy if the problem is psychological in nature; reducing the postdoctoral associate’s workload; and/or assigning additional readings/trainings/co-therapy. A written summary of this remediation plan will be placed in the postdoctoral associate’s file and will be shared with all parties via email. The Training Director will establish weekly meetings with the postdoctoral associate to promote and problem-solve adherence to the established remediation plan. If the trainee meets the goals/objectives within the remediation plan, the trainee will be informed in writing that he/she has successfully completed the plan and record of this will be kept in the postdoctoral associate’s file.

Clinical Faculty Hearing related to Postdoctoral Associate Performance: If the committee convened in #3 above determines that remediation has not occurred within a previously agreed upon time period, then the problem will be brought before the entire Postdoctoral Fellowship Clinical Faculty for review. This may be initiated by the postdoctoral associate, the supervisor, or the Resolution Committee. This will take place during a regularly established monthly faculty meeting and the postdoctoral associate will be released from other obligations so that he/she can attend the meeting. The Postdoctoral Fellowship
Clinical Faculty will then review previous actions and ask follow-up questions to the postdoctoral associate, and will make a determination of one of the following:

a. No action is taken against the employee.

b. With the involvement of Human Resources, the postdoctoral associate is placed on an additional 30, 60, or 90-day HR performance enhancement plan, with specific written goals and deadlines. Written criteria for clinical, ethical, or personal conduct provided to the postdoctoral associate will be placed in the postdoctoral associates’ file. The performance enhancement plan will clearly state that if the postdoctoral associate fails to meet the goals/objectives of the plan, it may result in termination of employment. If the trainee meets the goals/objectives within the performance enhancement plan, the trainee will be informed in writing that he/she has successfully completed the plan and record of this will be kept in the postdoctoral associate’s file.

c. With the involvement of HR, it is recommended that the employee is terminated from his/her position, and the postdoctoral associate will be notified that he/she has failed the postdoctoral fellowship.

Throughout the performance enhancement/remediation process, documentation of the problem, plan, and evaluation of the plan will be kept in the postdoctoral associate’s permanent file. Documentation of all plans and outcomes will also be kept as part of program documentation. The postdoctoral associate has the right to review all documentation related to any action taken by the Postdoctoral Fellowship Clinical Faculty regarding his/her postdoctoral associateship status.

IV. TYPES OF DISCIPLINARY ACTION

Disciplinary actions beyond a written warning must be reviewed and approved by Human Resources before being issued to the employee. The following constitute formalized disciplinary actions that may be taken to address misconduct and behavioral issues. The order in which the following actions are presented does not create, nor is it intended to create, a progressive discipline policy. The University explicitly reserves the right to determine the appropriate disciplinary action to be used based upon the nature of the offense.

A. WRITTEN WARNING

When the nature of the misconduct or behavior warrants the issuance of a written warning, the supervisor should discuss the conduct in question and present the written warning to the employee. The written warning must identify the problem and outline a course of corrective action within a specific time frame (e.g., performance enhancement plan). The employee should clearly understand both the corrective action and the consequence(s) if the problem continues to occur. The supervisor is required to meet with the employee when presenting the written warning in order to ensure that an explanation of the disciplinary action is provided.

B. SUSPENSION

A suspension is a form of disciplinary action that operates to remove an employee from duty for a defined period of time without pay. The period of suspension may generally range from one (1) to thirty
(30) days, based upon the factual circumstances surrounding the conduct in question. Suspensions shall be confirmed in writing to the employee, and include the reason for the suspension, the date and time the suspension begins, and the date and time the employee is expected to return to work at the conclusion of the suspension. Additionally, the suspension should also set forth corrective action to be taken by the employee upon his/her return, and the consequence of continuing to engage in the misconduct.

If a suspension is for more than one (1) day, it shall occur on consecutive working days. A suspended employee is prohibited from making up time and/or wages which were lost as a result of the suspension. Failure to return to work upon the expiration of the suspension period shall constitute abandonment of the employee’s position with the University and will be processed as a voluntary resignation of employment with ineligibility for rehire.

C. TERMINATION

Any employee whose conduct violates the University’s policies, procedures, or work directives may be terminated immediately and without warning based upon the factual circumstances surrounding the conduct. It should also be noted that terminations based upon misconduct may serve as a bar to reemployment with the University in the future. Consult the University’s Eligibility for Rehire policy for more information on whether certain actions prohibit consideration of an employee for reemployment.

V. OTHER RELEVANT PROVISIONS

A. ADMINISTRATIVE LEAVE PENDING INVESTIGATION

In cases where the employee’s presence at work may interfere with the performance of an investigation or pose a threat to others, the employee in question may be placed on administrative leave with pay pending the outcome of the investigation. Human Resources’ Office of Workplace Equity and Performance shall be responsible for approving the placement of postdoctoral associates on administrative leave with pay when warranted.

B. ACKNOWLEDGMENT OF CERTAIN DISCIPLINE

The employee should acknowledge receipt of the written warnings and suspensions. In the event that an employee refuses to acknowledge receipt of a written warning or suspension, a witness is required to attest to the employee’s receipt of the discipline and refusal to acknowledge same. An employee may choose to submit a written rebuttal to the written warning or suspension to the supervisor and/or Human Resources within three (3) business days of receiving such discipline. Rebuttals shall be evaluated by the supervisor, in conjunction with Human Resources. The employee shall be notified in writing regarding the supervisor/Human Resources’ consideration of the rebuttal.

C. MAINTENANCE OF RECORD; EMPLOYEE’S DISCIPLINARY HISTORY

A copy of any discipline issued and the employee's written rebuttal (if any) shall be placed in the employee's personnel file by the supervisor or applicable HR representative or partner, and uploaded
into the University’s Workday system. Disciplinary actions issued to an employee shall remain in the employee’s personnel file permanently as required by the APA.

D. PRIOR REVIEW OF CERTAIN DISCIPLINE

Supervisors are required to present all proposed final warnings, suspensions, and terminations of an employee to their applicable HR representative or partner who in turn presents the recommendation to Human Resources’ Office of Workplace Equity and Performance for review and approval.

VI. APPEAL PROCESS

Appeal Process: The postdoctoral associate has the right to appeal any decision made by the training program at any step of due process, the hearing stage, and/or any decisions made by HR. Appeals must be submitted in writing to the appropriate parties listed below. All records of appeals will be maintained in the trainee’s file.

- When there is a difference in opinion between the faculty supervisor and the postdoctoral associate, the postdoc may appeal the decision to the training director for review. The training director will make final decisions related to next steps.

- If the postdoctoral associate does not agree with the Formal Training Program Performance Enhancement Plan established by the faculty supervisor and training director, the associate may appeal the decision to the Chief Psychologist of Psychology. The Chief Psychologist will make final decisions related to next steps.

- If the postdoctoral associate does not agree with the decisions made during the Hearing or the Remediation Plan, the associate may appeal the decision to the Chief Psychologist of Psychology. The Chief Psychologist will make final decisions related to next steps.

- In the case that the Postdoctoral Fellowship Clinical Faculty determines that the postdoctoral associate has failed the Postdoctoral Fellowship, the employee may then appeal this decision to the Human Resources’ Office of Workplace Equity and Performance (305-284-3064), at which time the grievance procedures spelled out in the Staff Handbook of the University of Miami will apply. At any time if the employee perceives that he or she has been discriminated against or experienced sexual harassment, the employee may file a formal complaint through the [UM Human Resources online portal](https://humanresources.miami.edu) under the heading “How to file a complaint.” In the event that an appeal of termination for misconduct raises issues of employment discrimination and/or alleged violations of federal, state and/or local labor and employment laws, the appeal shall be investigated by the Office of Workplace Equity and Performance in accordance with the University’s policy governing the treatment of such allegations, and shall not proceed as an appeal as provided for above. Human Resources will make final decisions related to next steps.

Appeal Timeline: Appeals managed by the training director will be reviewed and discussed with the postdoctoral associate within two weeks. Appeals managed by the Chief Psychologist or the Director/Associate Director of the Mailman Center will be reviewed and discussed with the
postdoctoral associate within one month, unless advised otherwise by the University’s General Counsel.

**Communication of Appeal Decisions:** Postdoctoral Associates will be informed in writing of all Appeals decisions and a copy of these communications will be maintained in the file of the postdoctoral associate.
I. POLICY AND GENERAL STATEMENT

The Mailman Center for Child Development at the Miller School of Medicine University of Miami ("the university") encourages fair, efficient and equitable solutions for problems arising at the university. The university strongly recommends that individuals experiencing problems attempt to resolve them informally before exercising the grievance process. Postdoctoral Associates should discuss the concerns openly with the individual with whom the problem exists.

If the Postdoctoral Associate separates from the university, the grievance process ends.

SCOPE

This policy applies to grievances by Postdoctoral Associates concerning academic issues including, but not limited to, the actions of supervisors or others that address training conditions.

This policy does not apply to:

- Complaints regarding discrimination and harassment. These types of complaints should be addressed under the procedures outlined in the Due Process Procedures. Specifically, At any time if the employee perceives that he or she has been discriminated against or experienced sexual harassment, the employee may file a formal complaint through the UM Human Resources online portal under the heading “How to file a complaint.” In the event that an appeal of termination for misconduct raises issues of employment discrimination and/or alleged violations of federal, state and/or local labor and employment laws, the appeal shall be investigated by the Office of Workplace Equity and Performance (305-284-3064), in accordance with the University’s policy governing the treatment of such allegations.

RETAILIATION AND CONFIDENTIALITY

No POSTDOCTORAL ASSOCIATE will be penalized or disciplined for filing a grievance or for aiding another POSTDOCTORAL ASSOCIATE in the presentation of a grievance. Postdoctoral Associates who believe that they have been penalized or disciplined for doing so should contact the University Hotline. Acts or threats of retaliation in response to grievances may subject the person retaliating to disciplinary action, up to and including termination of employment or training. Persons filing grievances with reckless disregard for the truth or in willful ignorance of the facts are excluded from protection and may be subject to disciplinary action, up to and including termination of employment or training.

II. PROCEDURE

Pursuant to this policy, grievances may be brought against immediate supervisors or others.
Prior to filing a written grievance, a POSTDOCTORAL ASSOCIATE may informally present his or her grievance to the person who is its subject, and the parties should make a good faith effort to resolve the issue or issues that are the subject matter of the grievance. The Training Director is available to assist in an informal resolution. This step may be skipped if the POSTDOCTORAL ASSOCIATE is not comfortable handling the issue informally.

A. Grievance Procedures

1. Formal Grievance

If informal efforts to resolve the grievance are not successful, the POSTDOCTORAL ASSOCIATE must present the grievance in writing to his or her supervisor within 30 days from the date of the action that is the subject of the grievance. The POSTDOCTORAL ASSOCIATE’s statement of complaint must include the POSTDOCTORAL ASSOCIATE’s recommendation(s) for resolution of the grievance. Relevant documents or any other information pertinent to the matter should also be provided.

Grievances should be directed to the appropriate administrator as follows: grievances against immediate supervisors should be directed to the Training Director; grievances against the Training Director should be directed to the Chief Psychologist; and those against the Chief Psychologist should be directed to the Associate Director or the Director of the Mailman Center for Child Development.

The party against whom the grievance is brought will be provided a copy of the written grievance and will have the opportunity to respond to it in writing and to submit documents or materials in support of his or her position. The party against whom the grievance is brought will respond to the grievance within 14 calendar days of receipt of the copy of the grievance from the administrator in receipt of the grievance.

The administrator will respond to the grievance within 30 calendar days of receipt of the grievance.

Failure to respond to a grievance within the time limits allows the POSTDOCTORAL ASSOCIATE to automatically submit the grievance to the next administrative level. Calculation of calendar days does not include holidays or “skeleton crew” days as indicated on the published university calendar.

2. Review of Grievance

If the grievance is not resolved to the satisfaction of the POSTDOCTORAL ASSOCIATE by the administrator with whom it was filed or was not responded to in accordance with the timelines outlined in this policy, the POSTDOCTORAL ASSOCIATE may appeal the grievance in the following order:

- Training Director
- Chief Psychologist
- Associate Director or Director of Mailman Center

The decision of the Associate Director or Director of the Mailman Center is final.
Appeals must be filed with the appropriate administrator within seven calendar days of receipt by the POSTDOCTORAL ASSOCIATE of a response of the lower level decision. Appeals must be responded to in accordance with the following time limits:

- The Chief Psychologist shall respond within 14 calendar days following receipt of the appeal.
- The Associate Director or Director of Mailman Center shall respond within 14 calendar days of receipt of the appeal.

B. Records

Upon completion of the grievance process, all recordings, documents and materials related to the formal grievance will be kept in the Postdoctoral Associate’s file for protected storage.