CAIR ACMR
Canadian Association of Internes & Residents
Association canadienne des médecins résidents

# Position Paper on
# Resident Intimidation and Harassment

June 15, 1996

## Preamble

Intimidation and harassment are unfortunately prevalent in medical training (1,2). Intimidation in medical education is any behavior, educational process, or tradition that induces fear in the trainee or has a detrimental effect on the learning environment. Intimidation occurs to varying degrees in residency training sometimes subtle other times overt.

The inherent imbalance in the power relationship between a university affiliated staff physician and resident must be recognized. It is not a simple employer/ employee relationship. The staff physician not only has the ability to adversely affect a residents continued employment but also their progress through to certification. While prior to 1993 trainees had the ability to obtain an independent practice license after one year of any postgraduate training, this option no longer exists for trainees in many jurisdictions in Canada. Trainees now require Royal College of Physicians and Surgeons or College of Family Physician of Canada certification to obtain licensure in many provinces. Trainees are mindful that there are limited numbers of residency positions, a lack of reentry positions and little opportunity to obtain an independent practice license without certification. Hence, residents are effectively bound to their training programs if they ever want to practice. Therefore trainees are in apposition whereby an attending physician can force a resident to face loss of employment and inability to complete training with little hope of regaining meaningful medical employment and hence, wasting at least four years of medical education. These fears lead to residents increasingly tolerating intimidation and harassment and being vulnerable to intimidation and harassment.

While there has been much discussion in Canada about intimidation and harassment in medical training there exists no effective or enforceable policy to deal with this problem in any jurisdiction. CAIR recognizes that only a minority of attending physicians intimidate and harass residents however CAIR is adamant that effective policy to deal with this problem must be developed.

CAIR is confident that all stakeholders in postgraduate medical education recognize that intimidation and harassment are unacceptable. Further, all residents have the right to study and work in an environment free of intimidation and harassment. Intimidation and harassment are not conducive to learning nor are these behaviors appropriate role modeling.

## Definition

Abuse and harassment is defined as engaging in vexatious commentor conduct that is known or ought to be known to be unwelcome. Intimidation occurs when these words or actions disparage or humiliate the trainee or cause the trainee to undertake a course of action against his/her will or against the trainees will, refrain from undertaking an activity that, except for abuse or harassment, would be undertaken. (3)

The kinds of unacceptable behaviors that trainees can face include, but are not limited to:

1. **Verbal abuse:** shouting, swearing, belittling, ignoring, ridiculing, disparaging remarks of racial, sexist, homophobic, religious, ethnic grounds or otherwise discriminatory nature (e.g., age, sexual orientation, ancestry, political belief, union affiliation, mental or physical disability.)
2. **Physical abuse:** Throwing objects at, pushing, punching, slapping, threatening gestures, exposure to hazardous situations.
3. **Sexual abuse** : Unwelcome comments, gestures, touching or actions of a sexual nature
4. **Workload abuse :** Contractual infraction, excessive service volume, lack of supervision, undesirable work assignments, not making allowances for illness, disability and leave
5. **Reprisal for negative feedback** of staff or program
6. **Reprisal or retaliation** for having lodged a harassment or intimidation complaint.
7. **Educational compromise** : Grading unfairly, disallowing participation in learning experiences.

The kinds of fears that lead to trainees acquiescence include but are not limited to:

1. **Loss of future opportunity:** references, poor evaluations, continued employment, progress to certification, employment opportunities
2. **Worsening abuse**
3. **Compromise of Education**: not educational experience commensurate to level of training.

Harassment and intimidation create a hostile or offensive environment or an environment that interferes with academic or work performance. Tolerating unacceptable behavior because of fear I-ads to emotional distress in the trainee and/ or has a detrimental effect on the trainee's academic or work performance.

## Principles for Provincial Complaints Procedures/Processes

In order to develop fair effective policy in this area several points need to be considered:

1. There is a vast range of these types of complaint from minor misunderstandings to flagrant harassment.
2. In registering a complaint the victim can be further victimized by reprisals for having registered a complaint.
3. An individual's background and prior experiences affect how they will react to these types of behavior.

An incident of intimidation must be investigated if it is reasonably perceived that it has to be tolerated by the complainant in order to continue to be employed or progress in an educational program.

CAIR proposes the following principles for complaints procedures and processes within each province. CAIR would encourage each PHO to ensure that an intimidation and harassment complaints procedure was entrenched in their respective collective agreements.

A. **Confidentiality** : All participants in the process been joined to maintain strict confidentiality except where disclosure be required to discreetly gather evidence to prove or disprove a complaint, or to implement or monitor the terms of any resolution properly.

B. **Records**: Records related to a complaint must be kept by the University involved for a period of three years. Or until all rights of appeal have been exhausted and times for appeal have expired, whichever is later.

C. Nothing in the process would prevent any person from **pursuing other procedures or remedies** available to them.

### Initiation of Complaint

Complaints of intimidation or harassment should be brought to the attention of the provincial housestaff organization (PHO). The complainant, with advice from the PHO would ascertain whether an investigation would be warranted and serve the best interests of the complainant. If the PHO or the complainant felt the complaint merited investigation it would provide a written request to the Postgraduate Dean (PGE Dean) of the involved institution to attempt informal resolution of the complaint.

### Informal Resolution

The PGE Dean or a delegate with recognized conciliation or dispute resolution skills would be given a reasonable amount of time (e.g. 10 days) to respond to the complaint and attempt informal resolution. The PGE Dean or delegate could meet with the PHO, the complainant and the alleged intimidator or harasser (respondent) to investigate and potentially resolve the matter.

If the PGE Dean is unable to resolve the complaint to the satisfaction of PHO or the complainant, a formal University Committee would meet within a reasonable amount of time (e.g.10days) to investigate the matter.

**University Committee**

A committee established at each medical school on a yearly basis would be established. This committee should have at least 257o PHO representation. The Committee could obtain written submissions from the complainant and the respondent. The Committee could also solicit written or oral submissions from any persons it feels could provide evidence material to the complaint.

The Committee would provide findings and recommendations to the Dean of the involved institution in a written report. This report would be made available to PHO, the complainant and the respondent.

**Dean's Response**

After submission of the Committee's report, the Dean of the involved institution would determine what action if any was to be taken. This written response to the Committee's report would be provided within a reasonable amount of time (e.g., 14 days) after submission of the report. The response should be given to PHO, the complainant and the respondent. A report including the 'complaint, the investigation, the Intimidation Committee's findings and recommendations and the Dean's response should be forwarded to the appropriate accrediting college. If unsatisfied the complainant should have the right to appeal to a body external to the Faculty of Medicine and ultimately external to the University. These bodies would have to be defined in each provincial jurisdiction and each provincial housestaff organisations contract. This appeal would have to be launched within a reasonable time (e.g. one month of the date of the Dean's response).

**Intimidation in the accreditation process**

CAIR would advocate that to minimize intimidation during accreditation that surveyors meet one on one with residents as opposed to groups of residents. Fear of reprisal often stymies disclosure during accreditation. Residents not only fear, at times, that their testimony to surveyors will be disclosed to their programs but also that fellow residents will report negative commentary back to the program being accredited.

**Program Accreditation**

CAIR would also advocate that programs require formal, transparent, written and well known mechanisms of dealing with Intimidation and Harassment (as outlined above) in order to achieve full accreditation. These mechanisms would be assessed at the time of program accreditation 'including in the preaccreditation surveys. Complaints, investigations and outcomes dealt with by these mechanisms would be made available to surveyors at the time of program accreditation.

**References**

1) Daugherty SR, Baldwin DC Jr, Rowley BD. Report to the AMAERF: National Survey of Resident Educational and Working Conditions. Chicago, III: American Medical Association: 1991.

2) Baldwin DC Jr, Daugherty SR Eckerfels E. Student perceptions of mistreatment and harassment during medical school: a survey of ten schools. West j Med. 1991:155:140-145.

3) Modified from the Ontario Human Rights Code