



OMEKO

Graduate Medical Education Policy

Approved by the GMEC (Graduate Medical Education Committee) on November 27, 2018

Effective Date: July 1, 2019

Review Date: May 2021

Next Review Date: May 2023

Policy Title: Academic and Non-Academic Grievances, Academic Disciplinary Actions and Due Process Policy

Purpose: To describe the methods Grievances, Disciplinary Actions and Due Process for Academic Appeals

Policy Type: Sponsoring Institution Policy

Non-Academic Grievances

Each member institution under Oklahoma State University Center for Health Sciences (OSU-CHS)/Osteopathic Medical Education Consortium of Oklahoma (OMEKO) sponsorship must have a policy for each of its programs that outlines the procedures for submitting and processing resident/fellow grievances/mistreatment at the program level. The policy must be submitted to the OSU-CHS/OMEKO Graduate Medical Education ("GME") office and approved by the Designated Institutional Official ("DIO").

Residents are encouraged to bring issues or concerns forward to the graduate medical education committee and its representative program leadership or through another mechanism comfortable to the resident.

Residents may raise and resolve issues without fear of intimidation. Individuals, including Program leaders, are prohibited from retaliating against a resident reporting a grievance. The DIO maintains an open-door policy for residents to address concerns regarding grievances and alleged retaliation.

Additional mechanisms available to residents for communicating and resolving issues include the following:

Grievances regarding academic or other disciplinary actions are processed according to the Sponsoring Institution policy as listed within this document.

- Grievances related to the work environment or issues concerning the Program or faculty that are not related to disciplinary or academic adverse actions can be addressed by discussing problems with a chief resident, Program Director, departmental chair GME Administration (GME Assistant Director, Executive Director of OMECO/OSU-CHS, DIO and/or Chair of Graduate Medical Education).
- Residents may submit comments, concerns or grievances anonymously using the GME Anonymous Resident/Fellow Comment Form on the GME website.
- Residents may report concerns or grievance to any resident member of the GMEC, who serves as representatives of the Sponsoring Institution.
- Residents are encouraged to contact members of the Resident Council to express concerns or to provide input regarding educational issues, the work environment, or other areas of concern. A report from Resident Council resident/fellow representatives to the GMEC is a standing item on the GMEC agenda.
- Individual Programs may have additional grievance policies and procedures and will make them available to all residents and faculty.

Academic Disciplinary Actions

OSU-CHS/OMECO has established procedures for GME training programs to follow if a Trainee fails to meet performance or academic standards while participating in the Programs, and/or engages in Misconduct while participating in the Programs. The Program is not required to issue a Trainee any form of non-corrective remedial action as a prerequisite to recommending or taking Corrective Action. Academic deficiency or misconduct may warrant Corrective Action up to, and including, dismissal, regardless of whether a Trainee ever received or was subject to any prior form of remedial action.

Two types of corrective action exist, non-reviewable corrective action and reviewable corrective actions.

A non-reviewable corrective action is typically the first step in the process when warning signs of problem(s) exist that are not so significant that formal remediation is warranted. Corrective actions under non-reviewable corrective actions are not reportable to future employers. Types of non-reviewable corrective actions are listed below:

- Notice of Concern
 - When an Academic Deficiency or Misconduct is identified, the Program Director may decide to provide a Notice of Concern to the Trainee.
 - In such an event, the Trainee will be provided with written documentation that provides a reasonable, specific period in which to implement detailed actions required to resolve Academic Deficiency or Misconduct. If Academic Deficiency or Misconduct persists following the specified time, the Program Director may elect to issue a Focused Review or other Corrective Action.
 - Within this notice of concern there should be the development of an Individualized Learning Plan (or revision of one in existence) that should correlate with the programs milestones that should be developed by the program director

- A Notice of Concern may prompt a discussion with the Trainee of the identified Academic Deficiency or Misconduct and strategies for improvement.
- A copy of the written Notice of Concern that is signed by the Program Director and the Trainee will be provided to the DIO and documented in the Trainee's file.
- A Notice of Concern is designed to correct observed unsatisfactory performance or improve the Trainee's chances for academic success, and thus, is not appealable.
- Focused Review by Success Committee
 - A Trainee may be referred to the Success Committee to assist in development of an individualized learning plan of remediation to improve a Trainee's identified area of Academic Deficiency or Misconduct. Individualized learning plans should be developed by the Program Director as a first step in identifying areas of deficiency and are strongly recommended to be developed on all residents as a foundation for obtaining benchmarks.
 - Upon identification of an Academic Deficiency or Misconduct that Program Director believes requires a Focused Review, the Program Director shall provide written notification of issuing a Focused Review to a Trainee within five (5) business days of such determination. Notice of issuing a Focused Review shall include the following items:
 - Notice that the Trainee may be referred to the Success Committee for assistance in the development of an individualized learning plan of remediation.
 - The reasons for the referral, including specific details regarding the grounds for such referral.
 - The possible consequences if the Trainee should fail to fully address the Academic Deficiency or Misconduct noted, including the possibility of an additional Focused Review, Probation, or other Corrective Action.
 - The Trainee may meet with a designated member of the Success Committee who will assist in development of a competency-based individualized remediation plan for the Trainee, which will include the expected duration and any interim timelines in which Trainee's performance will be reviewed.
 - The remediation plan will be reviewed and approved by the Program Director before it is delivered to the Trainee.
 - The remediation plan must be signed by the Program Director and the Trainee.
 - A copy of the signed remediation plan will be maintained in the Trainee's file and a copy will be provided to the OSU-CHS/OMECO GME Office and the GME Committee Chair; however, the remediation plan will not be a part of the Trainee's permanent record.
 - The designated Success Committee faculty member will report to the Program Director of Trainee's progress during and upon completion of the remediation plan.
 - If the Program Director or Clinical Competence Committee (CCC) determine that the Trainee failed to demonstrate satisfactory improvement or completion of the remediation plan, the Trainee may be issued an additional remediation plan or other corrective action after discussion transpires between the Program Director and the designated academic success committee consultant.
 - The Focused Review is designed to correct unsatisfactory performance or improve the Trainee's chances of academic success; thus, the placement on or the failure of a Focused Review is not appealable

A Reviewable corrective action (sometimes referred to as formal remediation) is the second step in the management of residents in difficulty. This step is implemented when the resident fails to correct identified deficiencies during informal remediation or when the deficiencies are so significant that the step of non-reviewable corrective action/informal remediation is skipped. These corrective actions are retained on the residency file and are reportable to future employers.

Each member institution must provide a resident/fellow with a written notice of intent when that resident's/fellow's agreement of appointment will not be renewed, when that resident/fellow will not be promoted to the next level of training, or when that resident/fellow will be dismissed

The following are considered reviewable corrective actions:

- Probation: Probation is a period during which the Trainee's progress will be closely monitored by the Program Director and the Program's CCC. Probation shall not be open ended. A Trainee placed on Probation will be notified in writing by the Program Director. The writing shall document the specific grounds for Probation, detailed terms of Probation, including the duration of Probation, and the steps required for Trainee to end the Probation term. The letter will inform the Trainee of the Trainee's right to assert a grievance. The notification will be delivered to the Trainee by US mail and Okstate.edu email within five (5) business days of determination to place a Trainee on Probation. Copies of the letter will be placed in the Trainee's permanent file and distributed to the DIO and the GME Committee Chair. A Trainee may be placed on Probation for reasons including, but not limited to, any of the following:
 - Failure to meet performance standards of an individual rotation and/or of the training Program.
 - Misconduct.
 - Documented and recurrent failure to complete medical records in a timely and appropriate manner.
 - Failure to comply with policies and procedures of the GME Committee, OSU-CHS/OMECO, the Hospital, the Program, or other policies and procedures applicable to Trainee's participation in the Program.

The duration of Probation will be determined by the Program Director, in consultation with the CCC.

- Renewal without Promotion: The Trainee will not be promoted to the next PGY-year at the completion of the current year of training.
 - Renewal Without Promotion should be used when a Trainee has not been able to clearly demonstrate behaviors, knowledge, and/or skills required to advance to the next level of training.
 - Within five (5) business days of determination of Renewal Without Promotion, the Program Director shall provide the Trainee with a letter via US Mail and email detailing the reasons for Renewal Without Promotion and the Trainee's right to assert a grievance. Copies of the correspondence shall be provided to the Trainee, the Designated Institutional Official, and the Chair of the GMEC.

- **Non-Renewal:** Non-Renewal means the Program will not offer an agreement to the Trainee for the next academic year or training period.
 - Prior to a Non-Renewal determination, the Program Director shall review the Trainee's performance in the Program and obtain input from his/her Program's CCC. The Program Director shall have the discretion to award credit for a portion of training satisfactorily completed.
 - Within five (5) business days of a non-Renewal determination, the Program Director shall provide the Trainee with a letter via US Mail and Okstate.edu email detailing the reasons for Non-Renewal and the Trainee's right to assert a grievance. Copies of the correspondence shall be provided to the Trainee, the Designated Institutional Official, and the Chair of the GMEC.
- **Suspension:** Suspension involves removal from the training Program for an indefinite period without prior notice due to serious deficiencies in knowledge, performance, behavior, or significant deficiencies related to patient safety. Depending on the specific circumstances and facts surrounding the determination to place the Trainee on Suspension, a Suspension may be with or without pay, at the discretion of the Program Director in consultation with the member institution. Trainee may be placed on Suspension for reasons including, but not limited to, any of the following:
 - Failure to meet the requirements of a remediation plan.
 - Failure to meet the performance standards of an individual rotation and/or of the training Program.
 - Misconduct that violates the guidelines set forth by the training Program.
 - Documented and recurrent failure to complete medical records in a timely and appropriate manner.
 - Failure to comply with policies and procedures of the GMEC, Sponsoring Institution, the Hospital, or other applicable policies and procedures.
 - Academic Deficiencies that jeopardize patient safety.
- A Trainee placed on Suspension will be notified in writing by the Program Director. The writing shall document the specific grounds for Suspension, detailed terms of Suspension, including the duration of Suspension, and the steps required for Trainee to end the Suspension. The notification will be delivered to the Trainee by US mail and email within five (5) business days of determination to place a Trainee on Suspension. Copies of the letter will be placed in the Trainee's permanent file and distributed to the Designated Institutional Official and the GMEC Chair.
 - No Trainee shall be afforded a new agreement while on Suspension.
 - Since the resident remains an employee, the existing contract will remain intact until the period of suspension is completed.
 - If this is between overlapping years, the resident shall not be promoted and the existing contract for the current post graduate year (PGY) will remain intact until further resolution can be acquired
 - During the period of Suspension and any appeal of Suspension, the Trainee shall not be present at Sponsored Program shall not treat patients and may not take part in the Program.
 - During the period of Suspension, the Program Director and Designated Institutional Official will determine whether the Trainee should be reinstated to the Program or terminated.
- **Dismissal:** Dismissal involves immediate and permanent removal of the Trainee for failing to maintain academic and/or professional standards necessary to progress in and complete the Program. Dismissal may occur without Probation or other Corrective Action or remediation. In cases of Misconduct or Academic Deficiencies that are judged by the Program Director to be irremediable, the Program

Director will provide the Trainee with adequate notice in writing of the specific ground(s) and the nature of evidence on which the Dismissal is based. Notice shall be given to the Trainee by both US mail and the Trainee's okstate.edu email address and shall be provided no later than five (5) business days after Program Director determines the Misconduct or Academic Deficiency is irremediable. Dismissal from a residency Program may occur for reasons including, but not limited to, any of the following:

- Demonstrating unethical or unprofessional behavior.
- Being placed on Probation more than once.
- Failure to meet the requirements of a written notification or Corrective Action plan as provided by the Program Director.
- Failure to comply with the terms and conditions of Suspension.
- illegal conduct.
- Failure to comply with the medical licensure laws of the State of Oklahoma or state where training has occurred.
- Failure to maintain required professional liability coverage as stipulated in the eligibility requirements of OSU-CHS/OMECS.
- Failure to pass required medical licensing exams and/or obtain required licensure.
- Participating in any type of moonlighting activities without the knowledge and prior written approval of the Program Director.
 - Within five (5) business days of the determination to Dismiss a Trainee, the Program Director shall meet with the Trainee and provide the Trainee with a written letter of Dismissal via US mail and Okstate.edu email, including the reason for the action, the date of Dismissal and the Trainee's right to assert a grievance under Section. A copy of this letter will be provided to the DIO and the Chair of the GMEC.

The Program Director is responsible for and shall administer disciplinary or academic Adverse Action. The program director may consult with the DIO during a non-reviewable corrective action but must consult with the DIO during the delivery of a reviewable corrective action.

Academic Grievances and Due Process

Each resident/fellow will be granted due process relating to supervision, non-renewal, non-promotion, or dismissal regardless of when the action is taken during the appointment period. Each member institution must have a policy that grants due process to the residents/fellows, and the policy must be submitted to the OSU-CHS/OMECS GME office and approved by the DIO. Academic grievances only apply to reviewable actions.

The Sponsoring Institution GMEC serves as the appeals body for all Trainees in Programs, independent of that Program's funding source, for actions taken that could significantly impact a Trainee's intended career development such as Probation, Renewal Without Promotion to a subsequent PGY level, Non-Renewal, Suspension, or Dismissal.

Procedure for Academic Grievance

If a Trainee is subject to Probation, Suspension, Renewal Without Promotion, Non-Renewal or Dismissal, they may initiate a Formal Grievance Procedure. The Trainee shall present the Grievance in writing and via email to the okstate.edu email address to the OSU-CHS/OMEKO DIO within twenty (20) calendar days after the date of receipt of notification of a Reviewable Corrective Action. The Grievance shall state the facts upon which the Grievance is based and requested remedy sought. The OSU-CHS/OMEKO Designated Institutional Official, or designee, shall respond to the Grievance in writing via US mail and the Trainee's Okstate.edu email no later than fifteen (15) calendar days after they are received the Grievance.

If the Trainee is not satisfied with the response, they may then submit, within ten (10) calendar days of receipt of the OSU-CHS/OMEKO Designated Institutional Official's response, a written request for a Hearing.

Hearing

The Hearing Procedure will be coordinated by the Sponsoring Institution Designated Institutional Official, or designee, who will preside at the Hearing, but will not be a voting participant. The Hearing will be scheduled within thirty (30) calendar days of the Trainee's written request for a Hearing. The Hearing Panel will consist of at least three (3) members of the Sponsoring Institution GMEC and will be appointed by the DIO or the Chairman of the GMEC if the DIO is unavailable. The Sponsoring Institution Designated Institutional Official will determine the time and site of the Hearing in consultation with the Trainee, the Hearing Panel and Program leadership. The Trainee shall have a right to self-obtained legal counsel at their own expense or another advisor of the Trainee's choice; however, for Academic Deficiency a Trainee's retained counsel or other advisor is limited to advising the Trainee directly and may not actively participate in the Hearing, cross-examine witnesses, or speak before the Hearing Panel. The Trainee's retained counsel or other advisor may participate directly when there is a Hearing for Misconduct.

The format of the Hearing will include a presentation by the Program Director or their representative; an opportunity for a presentation by the Trainee; an opportunity for a response by the Program Director or their representative, followed by an opportunity for a response by the Trainee. This will be followed by a period of questioning from the Program Director, or their representative, and the Trainee by the Hearing Panel.

The Trainee and the program will have a right to present documents and/or witnesses at the Hearing, including witnesses who may be Program representatives. All documents presented by either party at the Hearing shall be provided to the other party at least five (5) calendar days prior to the Hearing. A final decision will be made by a majority vote of the Hearing Panel only after deliberation of the Hearing Panel, and such final decision will be communicated to the Trainee within ten (10) calendar days after the Hearing. This Formal Grievance Procedure will represent the final appeal within the Sponsoring Institution and its Sponsored Programs.

Summary of Corrective Actions (This list is meant to be a guide, and each situation may require additional consideration)

Remediation Action	Grieveable	Reportable	Retained in Resident File
Resident Evaluations	No	No	Yes
Notice of Concern	No	No	Yes, until remedied then removed
Focus of Concern	No	No	Yes, until remedied then removed
Probation	Yes	Yes	Yes
Suspension	Yes	Yes	Yes
Non-Renewal	Yes	Yes	Yes
Renewal with Non-Promotion	Yes	Yes	Yes
Dismissal	Yes	Yes	Yes
Removal from Patient Care Activities	No	Situational	Situational

References

Sponsoring Institution ACGME (Accreditation Council for Graduate Medical Education) Requirements

IV.C.2.e) grievance and due process; (Core)

IV.E. Grievances: The Sponsoring Institution must have a policy that outlines the procedures for submitting and processing resident/fellow grievances at the program and institutional level and that minimizes conflicts of interest. (Core)