



OMEKO

Graduate Medical Education Policy

Approved by the GMEC (Graduate Medical Education Committee) on May 23, 2023

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Corresponding Forms/Templates/Pathways: [Form for Formal Notice.pdf](#)

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

Purpose: To describe the methods for handling Disciplinary Actions and providing Due Process for Appeals from Reviewable Corrective Actions

Policy Type: Sponsoring Institution Policy

Graduate Medical Education Corrective Actions

Oklahoma State University Center for Health Sciences (“OSU-CHS”) and the Osteopathic Medical Education Consortium of Oklahoma (“OMEKO”) as Sponsoring Institutions have established procedures for Graduate Medical Education (“GME”) training Programs to follow if a resident or fellow (collectively referred to as a “Trainee”) fails to meet performance or academic standards while participating in a Program (“Academic Deficiency”), and/or engages in behaviors which are serious departures from the standards and expectations set for resident physicians (“Misconduct”). Misconduct encompasses actions that violate ethical principles, laws, standards of practice, and policies of the Program, Sponsoring Institution, or Member Institution. Examples of Misconduct while participating in a Program include (but are not limited to) the following: illegal activity, lying, falsification of a medical record, violation of medical record privacy, being under the influence of intoxications or drugs, disorderly conduct, harassment (including sexual harassment), the use of abusive language on the premises, fighting, encouraging a fight or threatening, or attempting or causing injury to another person.

The Program is not required to issue a Trainee any form of non-corrective remedial action as a prerequisite to taking Corrective Action related to an Academic Deficiency or Misconduct. 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 Action. The Program Director is responsible for and shall administer all disciplinary and Corrective Actions. The Program Director may consult with the Designated Institutional Official (“DIO”) during a Non-Reviewable Corrective Action and is required to consult with the DIO prior to the delivery of a Reviewable Corrective Action.

I. Non-Reviewable Corrective Action

A Non-Reviewable Corrective Action (sometimes referred to as informal remediation) is typically the first step in the process when warning signs of problem(s) exist that do not rise to the level of warranting formal remediation. Non-Reviewable Corrective Actions are not reportable to future employers or the applicable licensure board. 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 that are required to resolve the 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 a Notice of Concern there should be the development of an Individualized Learning Plan (or revision of any Individualized Learning Plan in existence) that should be developed by those that are involved in the remediation of the Trainee. This may include (but is not limited to) the Trainee, the CCC, a Faculty Member or other designated individuals with remediation expertise. The Individualized Learning Plan should be reviewed and approved by the Program Director with correlation to the Program milestones. Individualized Learning Plans serve as a first step in identifying areas of deficiency and are strongly recommended to be developed for all Trainees as a foundation for obtaining benchmarks.
- A Notice of Concern should at minimum include details that can be found on the template developed by the Sponsoring Institution, and the form can be accessed at the top of this policy.
- A Notice of Concern will prompt a discussion with the Trainee of the identified Academic Deficiency or Misconduct and strategies for improvement, along with the actions required to resolve the Academic Deficiency or Misconduct.
- 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. If the Trainee refuses to sign, the Notice of Concern must be denoted as such. This remediation plan will not be a part of the Trainee's permanent record.
- 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 (Standardized Testing)**

- A Trainee may be referred to the Sponsoring Institution's Success Committee to assist in development of an Individualized Learning Plan of remediation to improve test performance if the Trainee's identified area of Academic Deficiency revolves around standardized testing.
- The designated Success Committee member will report to the Program Director of the Trainee's progress during and upon completion of the Individualized Learning Plan as it relates to testing performance.
- A copy of the signed Individualized Learning 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/DIO; however, the Individualized Learning Plan will not be a part of the Trainee's permanent record.

- **Focused Review (Generally)**

- Upon identification of an Academic Deficiency or Misconduct that the Program Director believes requires a Focused Review, the Program Director shall provide written notice of issuing a Focused Review to a Trainee within twenty (20) business days of such determination.
- When issuing a Focused Review, there should be the development of an Individualized Remediation Plan that provides a reasonable, specific period in which to implement specific actions that are required to remediate the cause for the Focused Review. The Individualized Remediation Plan should be developed by those that are involved in the remediation of the Trainee. This may include (but is not limited to) the Trainee, the CCC, a Faculty Member or other designated individuals with remediation expertise.
- The Individualized Remediation Plan will be reviewed and approved by the Program Director before it is delivered to the Trainee.
- The Individualized Remediation Plan must be signed by the Program Director and the Trainee. If the Trainee refuses to sign, the plan must be denoted as such.
- A copy of the signed Individualized 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/DIO; however, the remediation plan will not be a part of the Trainee's permanent record.
- If the Program Director or Clinical Competency Committee ("CCC") determine that the Trainee failed to demonstrate satisfactory improvement or completion of the Individualized Remediation Plan, the Trainee may be issued an additional Individualized Remediation Plan or other Corrective Action after discussion between the Program Director and the CCC.
- A Focused Review is designed to correct unsatisfactory performance or improve the Trainee's chances of academic success; thus, the placement on Focused Review and the components of the Individualized Remediation Plan are not appealable.

II. Reviewable Corrective Action

A Reviewable Corrective Action (sometimes referred to as formal remediation) is implemented when a Trainee 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. A Reviewable Corrective Action is retained in the Trainee's file and is reportable to future employers and the applicable licensure board.

Each Member Institution must provide a Trainee with written notice when a Renewable Corrective Action is implemented. Reviewable Corrective Actions include the following: when a Trainee will be placed on probation, when a Trainee will not be promoted to the next level of training, when a Trainee's agreement of appointment will not be renewed, when a Trainee will be suspended, or when a Trainee will be dismissed.

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

- Within five (5) business days of the determination to place a Trainee on Probation, the Program Director shall provide the Trainee with a letter via US Mail and email detailing the reasons for placement on Probation and the Trainee’s right to assert an appeal.
 - Copies of the notice will be placed in the Trainee’s permanent file and distributed to the DIO and the GMEC 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 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 (“GMEC”), the Sponsoring Institution, the Member Institution, the Program, or other policies and procedures applicable to Trainee’s participation in the Program.
- **Renewal Without Promotion**
 - In the event of Renewal Without Promotion, the Trainee will not be promoted to the next Postgraduate Year (“PGY”) at the completion of the current year of training.
 - Renewal Without Promotion may occur when a Trainee is not able to clearly demonstrate behaviors, knowledge, and/or skills required to advance to the next level of training, as determined by the Program Director in collaboration with the CCC.
 - Within twenty (20) business days of the 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 an appeal.
 - Copies of the notice will be placed in the Trainee’s permanent file and distributed to the DIO and the GMEC Chair.
- **Non-Renewal**
 - Non-Renewal means the Program will not offer an agreement to the Trainee for the next academic year or training period. Non-Renewal may occur when a Trainee has demonstrated behaviors that demonstrate lack of progression in milestones. This can include, but is not limited to, the following: unsatisfactory academic performance that has not been remediated to an acceptable level for progression to the next year of training, failure to comply with program/institutional policies, failure to obtain, renew or maintain licensure consistent with state or federal laws, failure to successfully complete certifying or licensure exams and ongoing professionalism or ethical concerns or Misconduct.
 - Prior to a Non-Renewal determination, the Program Director shall review the Trainee’s performance in the Program and obtain input from the Program’s CCC. The Program Director shall have the discretion to award credit for a portion of training satisfactorily completed.
 - Within twenty (20) business days of the determination of Non-Renewal, the Program Director shall provide the Trainee with a letter via US Mail and email detailing the reasons for Non-Renewal and the Trainee’s right to assert an appeal.
 - Copies of the notice will be placed in the Trainee’s permanent file and distributed to the DIO and the GMEC Chair.
- **Suspension**
 - Suspension involves removal from the Program for an indefinite period, with or 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 and in consultation with the Member Institution.

- A Trainee may be placed on Suspension for reasons including, but not limited to, any of the following:
 - Failure to meet the requirements of an Individualized Remediation Plan.
 - Failure to meet the performance standards of an individual rotation and/or of the Program.
 - Misconduct that violates the guidelines set forth by the Program that put patients, Trainees, peers or faculty at immediate risk. This may include, but is not necessarily limited to, circumstances such as the following:
 - Impairment
 - Member Institution policy violations
 - Aberrant behavior that is felt to substantially disrupt the learning/working environment and place patients, peers, faculty or staff at risk
 - Legal and/or Board action considered to have a negative impact on patient care
 - Allegations of inappropriate behavior with peers, patients or faculty
 - 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 Member Institution, the Program, or other policies and procedures applicable to Trainee's participation in the Program.
 - Academic Deficiencies that jeopardize patient safety.
- A Trainee placed on Suspension will be notified in writing by the Program Director.
- Within five (5) business days of the determination to place a Trainee on Suspension, the Program Director shall provide the Trainee with a letter via US Mail and email detailing the specific grounds for Suspension, the detailed terms of Suspension (including the duration of Suspension), the steps required for the Trainee to end the Suspension, and the Trainee's right to assert an appeal.
- Copies of the notice will be placed in the Trainee's permanent file and distributed to the DIO and the GMEC Chair.
- No Trainee shall be afforded a new agreement while on Suspension. However, since the Trainee remains an employee, the existing contract will remain intact until the period of Suspension is completed.
 - If the period of Suspension is between overlapping years, the Trainee shall not be promoted to the next PGY. The existing contract for the current PGY will remain in effect until the Suspension has been resolved and the Trainee is either permitted to re-enter the Program or another Corrective Action is implemented.
 - If Suspension requires a delay in progression, this will be included as an additional Reviewable Corrective Action including Renewal Without Promotion (as outlined above).
- During the period of Suspension and any appeal of Suspension, the Trainee shall not be present at the Member Institution, shall not treat patients, and shall not take part in the Program.
- During the period of Suspension, the Program Director and DIO will determine whether the Trainee should be reinstated to the Program, with or without additional Corrective Action(s), or dismissed.
- A Trainee may be placed on suspension by the Member Institution for policy reasons, that may or may not also be considered a Suspension from the Program. These situations should be rare

and will be determined in consultation with the participating site, Member Institution (if different), Program Director, and DIO.

- **Dismissal**

- Dismissal is immediate and permanent removal of the Trainee for Misconduct, or failure to maintain academic standards necessary to progress in and complete the Program. Dismissal may occur without Probation or other Corrective Action or remediation.
- Dismissal is appropriate upon the Program Director's determination that the Trainee's Misconduct or Academic Deficiency is irremediable.
- Within five (5) business days after Program Director determines the Misconduct or Academic Deficiency is irremediable, the Program Director shall provide the Trainee with a letter via US Mail and email detailing the specific ground(s) and the nature of evidence on which the Dismissal is based, along with the date of Dismissal and the Trainee's right to assert an appeal.
- Dismissal from a 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/OMECCO.
 - 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.

Reviewable Corrective Action and Due Process

Each Trainee will be granted due process in the event of a Reviewable Corrective Action, regardless of when the action is taken during the appointment period. Each Member Institution must have a policy that grants due process to the Trainees, and the policy must be submitted to the OSU-CHS/OMECCO GME office and approved by the DIO. The Sponsoring Institution GMEC serves as the appeals body for all Trainees in all of its Programs, independent of that Program's funding source.

Process to Initiate Appeal following Reviewable Corrective Action

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

If the Trainee is not satisfied with the response, they may then submit a written request for a Hearing within ten (10) business days of receipt of the OSU-CHS/OMECCO DIO's response. A request for a Hearing must be in writing via email to the okstate.edu email address of the OSU-CHS/OMECCO DIO.

Hearing

After receipt of a written request for a Hearing, the DIO, or designee, shall coordinate the Hearing. The Hearing will be scheduled within twenty (20) business 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 DIO will preside at the Hearing, but will not be a voting participant. The OSU-CHS/OMECCO DIO will determine the time and location of the Hearing in consultation with the Trainee, the Hearing Panel, and Program leadership.

The Trainee and the Program shall have a right to self-obtained legal counsel at their own expense, or another advisor of their choice. For Hearings involving an Academic Deficiency, neither the Trainee or the Program's counsel or other advisor(s) may actively participate in the Hearing, cross-examine witnesses, or speak before the Hearing Panel. In such Hearings, the respective counsel or other advisors are limited to advising the Trainee or Program, respectively. A non-legal representative may be designated to present in lieu of the Program Director in cases where there is an actual or perceived conflict that prohibits the Program Director from presenting on the Program's behalf or in cases where circumstances prohibit the Program Director from being present. In such instances, the representative shall be a faculty member with qualifications acceptable to the Sponsoring Institution. For Hearings involving Misconduct, counsel or another advisor(s) for both the Trainee and the Program may participate directly in the Hearing.

The format of the Hearing will generally be as follows. The Hearing will begin with opening statements by both the Program Director and the Trainee. Following the opening statements, presentations by the Program Director and Trainee will occur. Next, there will be an opportunity for a response by the Program Director or their representative, followed by an opportunity for a response by the Trainee. After presentations by the Program Director and the Trainee, both parties will have the opportunity to ask questions of and cross-examine the other. This will be followed by a period of questioning by the Hearing Panel of the Program Director (or their representative) and of the Trainee.

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) business days prior to the Hearing, through the OSU-CHS/OMECCO DIO, or designee. A final decision will be made by a majority vote of the Hearing Panel after deliberation of the Hearing Panel, and such final decision will be communicated to the Trainee and the Program within ten (10) business days after the Hearing. This Formal Appeal Procedure constitutes the Trainee's 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	Appealable	Reportable	Retained in Trainee File
Trainee 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 4.3.a.5. grievance and due process; (Core)4.5. 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)