



# Cherokee Nation Health Services Family Medicine Residency Program Academic and Non-Academic Grievances, Academic Disciplinary Actions, and Due Process Policy

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## **Purpose:**

To describe the methods for Grievances, Academic Disciplinary Actions and Due Process for Academic Appeals for Residents in the Cherokee Nation Family Medicine Residency Program

## **Non-Academic Grievances**

Residents in the Cherokee Nation Family Medicine Residency Program are encouraged to bring issues or concerns forward to the Program Director or the Designated Institutional Official (DIO) of the Sponsoring Institution, the Osteopathic Medical Education Consortium of Oklahoma (OMEKO), whichever is more 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 will maintain an open-door policy for residents to address concerns regarding grievances and alleged retaliation.

Grievances related to the work environment or issues concerning the Cherokee Nation Family Medicine Residency Program or faculty that are not related to disciplinary or academic adverse actions can be addressed by discussing problems with a chief resident, the Program Director, the Chair of Graduate Medical Education Committee (GMEC) for OMEKO, or the DIO.

Residents may submit comments, concerns, or grievances anonymously using the GME Anonymous Resident/Fellow Comment Form on the GME website (<https://medicine.okstate.edu/GME>).

Residents may report concerns or grievance to any resident member of the GMEC, who serve as representatives of OMEKO.

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.

## **Academic Disciplinary Actions**

Residents in the Cherokee Nation Family Medicine Residency Program are expected to meet performance and academic standards while participating in the program. Misconduct or academic



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deficiency may warrant corrective action up to, and including, dismissal, regardless of whether a resident ever received or was subject to any prior form of remedial action. The program is not required to issue a resident any form of non-corrective remedial action as a prerequisite to recommending or taking corrective action.

The Cherokee Nation Human Resources Policy and Procedure, Chapter III, Section E, Progressive Discipline Process (Due Process), does not apply, as all participating residents are subject to disciplinary action and due process as outlined in this policy.

Evaluations of resident performance are conducted throughout each year of the training program for each resident. The information from the evaluations can be used in decisions regarding implementation of corrective action against a resident for unsatisfactory performance. Evaluations will be maintained in the resident's file upon completion; however, the information contained in the evaluations is not grievable or reportable.

Two types of corrective action exist, non-reviewable corrective action and reviewable corrective action. 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. Non-reviewable corrective actions are not reportable to future employers. Types of non-reviewable corrective actions are listed below:

### 1) **Notice of Concern**

- When misconduct or an academic deficiency is identified, the Program Director may decide to provide a notice of concern to the resident. In such an event, the resident 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 the notice of concern, an Individualized Learning Plan will be developed (or revision of one in existence) that should correlate with the program's milestones developed by the Program Director.
- A notice of concern may prompt a discussion with the resident regarding 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 resident will be provided to the DIO and documented in the resident's file.
- A notice of concern is designed to correct observed unsatisfactory performance or improve the resident's chances for academic success, and thus, is not appealable.



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**2) Focused Review by Success Committee**

- A resident may be referred to the Success Committee to assist in development of an individualized learning plan of remediation to improve a resident's identified area of misconduct or academic deficiency.
- Upon identification of misconduct or an academic deficiency, that the Program Director believes requires a focused review, the Program Director shall provide written notification of issuing a focused review to a resident within five (5) business days of such determination. Notice of issuing a focused review shall include the following items:
  - o Notice that the resident may be referred to the Success Committee for assistance in the development of an individualized learning plan of remediation.
  - o The reasons for the referral, including specific details regarding the grounds for such referral.
  - o The possible consequences if the resident should fail to address the academic deficiency or misconduct fully, including the possibility of an additional focused review, probation, or other corrective action.
- The resident may meet with a designated member of the Success Committee who will assist in development of a competency-based individualized remediation plan for the resident, which will include the expected duration and any interim timelines in which the resident's performance will be reviewed.
- The Program Director will review and approve the remediation plan before it is delivered to the resident.
- The Program Director and the resident must sign the remediation plan.
- A copy of the signed remediation plan will be maintained in the Resident's file and a copy will be provided to the OMECO GME Office and the GMEC Chair; however, the remediation plan will not be a part of the resident's permanent record.



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- The designated Success Committee faculty member will report to the Program Director regarding the resident's progress during and upon completion of the remediation plan.
- If the Program Director or Clinical Competency Committee (CCC) determine that the resident failed to demonstrate satisfactory improvement or completion of the remediation plan, the resident 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 resident'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 in the resident's file and are reportable to future employers.

The Program Director will provide a resident with a written notice of intent when that resident's agreement of appointment will not be renewed, when that resident will not be promoted to the next level of training, or when that resident will be dismissed.

The following are considered reviewable corrective actions:

1. **Probation:** Probation is a period during which the resident's progress will be closely monitored by the Program Director and the program's Clinical Competency Committee (CCC). A resident 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 resident to end the probation term. Probation will not be open-ended. The letter will inform the resident of the resident's right to assert a grievance. The notification will be delivered to the resident by US mail and Okstate.edu email within five (5) business days of determination to place a resident on probation. Copies of the letter will be placed in the resident's permanent file and distributed to the DIO and the GMEC Chair. A resident 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



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- Misconduct
- Documented and recurrent failure to complete medical records in a timely and appropriate manner
- Failure to comply with policies and procedures of the GMEC, OMECO, Cherokee Nation Health Services, the Cherokee Nation Family Medicine Residency Program, or other policies and procedures applicable to resident's participation in the program.

The duration of probation will be determined by the Program Director, in consultation with the Clinical Competency Committee (CCC).

2. **Renewal without Promotion:** The resident will not be promoted to the next post-graduate year (PGY) at the completion of the current year of training.

  - Renewal without promotion should be used when a resident has clearly demonstrated 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 resident with a letter via US Mail and email detailing the reasons for renewal without promotion and the resident's right to assert a grievance. Copies of the correspondence shall be provided to the resident, the DIO, and the Chair of the GMEC.
3. **Non-Renewal:** Non-renewal means the program will not offer an agreement to the resident for the next academic year or training period.

  - Prior to a non-renewal determination, the Program Director will review the resident's performance in the program and obtain input from the program's Clinical Competency Committee (CCC). The Program Director has 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 resident with a letter via US Mail and Okstate.edu email detailing the reasons for non-renewal and the resident's right to assert a grievance. Copies of the correspondence shall be provided to the resident, the DIO, and the Chair of the GMEC.
4. **Suspension:** Suspension involves removal from the training program, for an indefinite period without prior notice, due to serious deficiencies in knowledge, performance,



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behavior, or significant deficiencies related to patient safety. Depending on the specific circumstances and facts surrounding the determination to place the resident on suspension, a suspension may be with or without pay, at the discretion of the Program Director in consultation with Cherokee Nation Human Resources. A resident 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, OMECO, Cherokee Nation Health Services, the Cherokee Nation Family Medicine Residency Program, or other applicable policies and procedures.
- Academic deficiencies that jeopardize patient safety.

A resident 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 resident to end the suspension. The notification will be delivered to the resident by US mail and email within five (5) business days of determination to place a resident on suspension. Copies of the letter will be placed in the resident's permanent file and distributed to the DIO and the GMEC Chair.

- No resident 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.
  - o 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



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- During the period of suspension and any appeal of suspension, the resident shall not be present at any Cherokee Nation Health Services facility, shall not treat patients and may not take part in any program-related activities.
  - During the period of suspension, the Program Director and DIO will determine whether the resident should be reinstated to the program or terminated.
5. **Dismissal:** Dismissal involves immediate and permanent removal of the resident 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 resident 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 resident by both US mail and the resident'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 the Cherokee Nation Family Medicine 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 OMECO.
  - Failure to comply with policies and procedures of the GMEC, OMECO, Cherokee Nation, including Cherokee Nation Health Services, the Cherokee Nation Family Medicine Residency Program, or other applicable policies and procedures.
  - Failure to pass required medical licensing exams and/or obtain required licensure.



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- Participating in any type of outside employment activities without the knowledge and prior written approval of the Program Director.

Within five (5) business days of the determination to dismiss a resident, the Program Director shall meet with the resident and provide the resident 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 resident's right to assert a grievance. A copy of this letter will be provided to the DIO and the Chair of the GMEC.

At the discretion of the Program Director, a resident may be removed from patient care activities for violation of program and/or Cherokee Nation, including Cherokee Nation Health Services, policies and procedures. The resident may be placed on paid administrative leave pending the outcome of an investigation. Depending on the reason for removal and investigation findings, the Program Director may consult with the DIO to determine possible corrective action. Removal from patient care activities is not grievable.

The Program Director is responsible for and shall administer disciplinary or academic adverse action.

The Program Director may consult with the DIO regarding a non-reviewable corrective action; however, a reviewable corrective action requires the Program Director to consult with the DIO prior to administering the corrective action.

### **Academic Grievances and Due Process**

Each resident 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. The OMECO GMEC serves as the appeals body for all residents in programs for any actions taken that could significantly affect a resident'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 resident is subject to probation, suspension, renewal without promotion, non-renewal or dismissal, they may initiate a formal grievance procedure. The resident shall present the grievance in writing and via email to the okstate.edu email address to the OMECO 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 OMECO DIO, or designee, shall respond to the grievance in writing via US mail and the resident's Okstate.edu email no later than fifteen (15) calendar days after they have received the grievance.



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If the resident is not satisfied with the response, they may then submit, within ten (10) calendar days of receipt of the OMECO DIO's response, a written request for a hearing.

### **Hearing**

The hearing procedure will be coordinated by the OMECO DIO, 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 resident's written request for a hearing. The hearing panel will consist of at least three (3) members of the OMECO GMEC and will be appointed by the DIO or the Chairman of the GMEC if the DIO is unavailable. The OMECO DIO will determine the time and site of the hearing in consultation with the resident, the hearing panel and program leadership. The resident shall have a right to self-obtained legal counsel at their own expense or another advisor of the resident's choice; however, for academic deficiency, a resident's retained counsel or other advisor is limited to advising the resident directly and may not actively participate in the hearing, cross-examine witnesses, or speak before the hearing panel. The resident'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 resident; an opportunity for a response by the Program Director or their representative, followed by an opportunity for a response by the resident. This will be followed by a period of questioning of the Program Director, or their representative, and the resident by the hearing panel.

The resident 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 resident within ten (10) calendar days after the hearing. This formal grievance procedure will represent the final appeal within OMECO and the Cherokee Nation Family Medicine Residency Program.

Summary of corrective actions (this list is meant to be a guide, and each situation may require additional consideration):

<u>Remediation Action</u>	<u>Grievable?</u>	<u>Reportable?</u>	<u>Retained in Resident File?</u>
Notice of Concern	No	No	Yes, until remedied then removed



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Focused Review	No	No	Yes, until remedied then removed
Probation	Yes	Yes	Yes
Suspension	Yes	Yes	Yes
Non-renewal	Yes	Yes	Yes
Renewal without promotion	Yes	Yes	Yes
Dismissal	Yes	Yes	Yes