

GRIEVANCE PROCEDURE GUIDELINES FOR RESIDENTS – (WCGME)

Residents employed by the Wichita Center for Graduate Medical Education are entitled to participate in the Grievance Procedure in the event an Adverse Action concerning residency status is taken. According to the Grievance Procedure Guidelines adopted by the Board of Directors of the Wichita Center for Graduate Medical Education, and explained in the following sections, an Adverse Action occurs when (1) a resident is placed on probation, (2) WCGME elects not to renew the agreement, (3) a resident is dismissed from a residency training program, or (4) any action is taken that threatens a resident's intended career development. If any action is taken, residents are entitled to a hearing as explained in Parts IV - XIII.

The Grievance Procedure is a method by which an impartial committee reviews the facts presented during a hearing to ensure that established procedures have been followed and that the procedures achieved the goals of fairness and accuracy. The committee has the authority to affirm the action, reverse the action, impose probation or to dismiss the resident.

A resident's salary will continue, during the time they are exercising the Grievance Procedure rights, by requesting and proceeding with a hearing.

I. Adverse Action

An Adverse Action occurs when a Program Director (1) places a resident on probation, (2) elects not to renew the agreement, (3) dismisses a resident from a residency training program, or (4) takes any action that threatens a resident's intended career development. The decision to place a resident on probation, non-renew the agreement, take any action that threatens a resident's intended career development, or dismiss the resident from the training program must be approved by the Department Chair and reviewed by WCGME.

The following sections explain when either probation or dismissal may occur.

A. Probation. A resident may be placed on probation for any of the following reasons:

1. Failure to obtain an unrestricted license to practice medicine in Kansas when eligibility requirements are met;
2. Failure to obtain a DEA registration number by the mid-point of his/her first year;
3. Consistent less than satisfactory or below average evaluations by the faculty;
4. Consistent and multiple complaints about interpersonal relationships with patients, peers, professional staff, support staff, or physicians with whom the resident interacts during the resident's training program;
5. Consistent delinquent episodes in the completion of medical records;
6. Failure to comply with the special requirements of the residency program (i.e. procedure documentation, research projects, conference attendance, etc.)
7. Participation in non-sanctioned activities (i.e., moonlighting) without written permission of the Program Director;
8. Violation of hospital rules or regulations; or

9. Such other cause as, in the opinion of the Program Director, makes it advisable to place the resident on probation.

A resident may be put on probation prior to initiation of or exhaustion of the hearing process. Any terms of probation shall be related to the reason for the probation and shall be set for a specific period of time. Probation may include relieving a resident of clinical responsibilities.

B. Non-Renewal of Agreement. WCGME may elect to non-renew a resident's agreement for any of the following reasons:

1. Failure to obtain an unrestricted license to practice medicine in Kansas when eligibility requirements are met;
2. Failure to obtain a DEA registration number by the mid-point of his/her first year;
3. Consistent less than satisfactory or below average evaluations by the faculty;
4. Failure to correct deficiencies leading to probation during the probationary period;
5. Consistent and multiple complaints about interpersonal relationships with patients, peers, professional staff, support staff, or physicians with whom the resident interacts during the resident's training program;
6. Consistent delinquent episodes in the completion of medical records;
7. Failure to comply with the special requirements of the residency program (i.e. procedure documentation, research projects, conference attendance, etc.)
8. Participation in non-sanctioned activities (i.e., moonlighting) without written permission of the Program Director;
9. Violation of hospital rules or regulations; or
10. Such other cause as, in the opinion of the Program Director, makes it advisable to decide not to renew the agreement.

C. Dismissal. A resident may be dismissed for any of the following reasons:

1. Failure to correct deficiencies leading to probation during the probationary period;
2. Unprofessional or dishonorable conduct or professional incompetence;
3. Conviction of a felony, as defined by the applicable state and federal laws, during the period of residency training;
4. Inability to participate in the essential functions of the Residency Training Program, with or without accommodations, due to mental or physical condition or impairment;
5. Participation in non-sanctioned activities (i.e., moonlighting) without written permission of the Program Director;
6. Violation of hospital rules or regulations; or

7. Such other cause as, in the opinion of the Program Director, makes it advisable to dismiss the resident.

A resident will be notified in writing from the program or the WCGME office of his/her dismissal thirty (30) days prior to the dismissal date but may be suspended from any participation in the program during this thirty (30) day period upon recommendation of the Program Director.

D. Any Other Action That Threatens A Resident's Intended Career Development.

II. Notice of Adverse Action

A resident against whom adverse action has been taken shall be given written notice of the intended adverse action from the Program Director or their designee. The written notice shall include a concise statement of the resident's alleged acts or omissions or other reasons for the adverse action. The notice shall be given to the resident either by sending a copy of the notice to the resident by certified mail (return receipt requested), or by hand-delivering a copy to the resident and, if possible, obtaining the resident's signed receipt for the notice. If the resident refuses to sign the hand-delivered receipt, then such refusal shall be considered as an acknowledgment of delivery and noted on the receipt.

A copy of the notice shall also be given to the Chief Operating Officer of The Wichita Center for Graduate Medical Education.

III. Request for Hearing

A resident shall have ten (10) weekdays following receipt of such notice to file a written request for a hearing. Such request shall be delivered to the Chief Operating Officer of the Wichita Center for Graduate Medical Education, or designee, either in person or by certified or registered mail.

IV. Waiver by Failure to Request a Hearing

A resident who fails to request a hearing within the time and in the manner specified waives any right to such hearing and to any review to which he/she might otherwise have been entitled.

V. Notice of Time and Place of Hearing

Upon the receipt of a request for a hearing, the Chief Operating Officer of the Wichita Center for Graduate Medical Education, or designee, shall appoint a Hearing Committee and shall schedule and arrange for a hearing. The hearing shall occur within seven (7) to fourteen (14) weekdays from the date of receipt of the request for hearing. At least five (5) weekdays prior to the hearing, the Chief Operating Officer

of the Wichita Center for Graduate Medical Education, or designee, shall provide the resident and the Program Director notice in writing of the time, place, date and membership of the hearing committee for the hearing. The Notice of Hearing may be given in person or by certified or registered mail. If given in writing, a receipt will be signed. If either party refuses to sign the hand-delivered receipt, then such refusal shall be considered as an acknowledgment of delivery and noted on the receipt. Notice of the hearing shall also include a list of the members of the Hearing Committee.

Within two weekdays of receipt of the Notice of Hearing, either party may note their objection, if any, to any Hearing Committee member on the grounds of bias or prejudice. The objection must be explained concisely in writing and given to the Chief Operating Officer, or designee, not later than noon on the date designated in the Notice of Hearing. The Chief Operating Officer, or designee, shall deliver the objections to the Chair of the Hearing Committee, who will have two weekdays to decide if the objection has any validity. If the Chair decides that the objection is not valid, the decision will be provided, in writing, to both parties, within two weekdays after the objection is made. The decision will be delivered in person or by certified or registered mail. If delivered in writing, a receipt will be signed. If either party refuses to sign the hand-delivered receipt, then such refusal shall be considered as an acknowledgment of delivery and noted on the receipt. If the Chair decides that the objection is valid, then the Hearing Committee member shall be removed and the Chief Operating Officer, or designee, shall appoint a substitute and provide notice of the substitution to both parties. If either party objects to the presence of the Chair, the Chief Operating Officer, or designee, shall designate another committee member to rule on the objection in the same manner as explained previously. The opportunity to object to a committee member as biased or prejudiced, and the ruling on that objection, shall not delay the scheduled hearing.

The Program Director and the resident shall exchange evidence which each intends to present at the hearing at least two (2) weekdays prior to the scheduled hearing. The evidence shall be delivered to the Chief Operating Officer no later than noon on the date designated in the Notice of Hearing, who shall then deliver it to each party. Evidence includes lists of witnesses and copies of documents or any other item that will be presented to the Hearing Committee for its consideration.

VI. Statement of Charges

The Notice of Hearing, required by the preceding section, shall contain a copy of the notice of adverse action as described in Section 2.

VII. Appointment of Hearing Committee

The Hearing Committee shall be composed of five (5) persons and shall be appointed by the Chief Operating Officer, or designee, to include: 1. Associate Dean for Graduate Medical Education, or designee, who will serve as Chair, 2. A Program Director from a non-affected residency, 3. A member of the faculty from a non-

affected residency, 4. A management representative from a member of The Wichita Center for Graduate Medical Education, which may include, but not be limited to, the Medical Education Director or the Vice President for Medical Staff Affairs, and 5. A resident from a non-affected residency program. No member of the committee shall be personally involved in the controversy described in the Statement of Charges. Attorneys are not allowed to attend Grievance Procedure hearings. The Chief Operating Officer, or designee, shall be in attendance at the hearing as an impartial observer.

VIII. Personal Presence

The presence of the resident who requested the hearing shall be required. Any resident who fails, without cause, to appear and proceed, or who appears but refuses to proceed in accordance with these Grievance Procedures, at such hearing shall be deemed to have waived his/her rights in the same manner as if no request for hearing had been made.

The presence of the Program Director who initiated the proceedings giving rise to the hearing shall be required. If the Program Director fails, without cause, to appear and proceed at such hearing, the resident's position shall be adopted as if no action had been taken and any probationary terms already in place shall be removed.

IX. Presiding Officer

The Chair of the Hearing Committee shall be the Presiding Officer and shall act to maintain decorum and to assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence. He/she shall be responsible for enforcing and conducting the order of procedure during the hearing and shall make all rulings on matters of procedure or the admissibility of evidence. The Presiding Officer does not have a vote during deliberations unless to break a tie vote of the Hearing Committee members.

X. Opportunity to be Heard

Both the resident and the Program Director shall be given an equal opportunity to be heard for such amounts of time as deemed fair and reasonable by the presiding officer. The Program Director and resident shall also be given the opportunity for a brief rebuttal. The Program Director's case shall be presented first and shall be followed by the resident's response. The Program Director shall then be given an opportunity for rebuttal followed by the resident's rebuttal.

Both parties shall be present for the other side's presentation but shall not be allowed to interrupt the opposing party's presentation. The parties will present their positions by a narrative format which can be supplemented by questions and answers.

Witnesses will be present in the hearing room only during the time of their testimony or presentation. Each party may question the other party and their witnesses. Members of the committee may question the parties and their witnesses.

Formal rules of evidence are not followed; however, parties are cautioned to avoid only hearsay evidence during their presentations.

Any evidence that each party wants the committee to consider shall be designated as an exhibit, marked with an exhibit sticker, and referred to in their presentation of the case. Any evidence that has been previously exchanged between the parties that has not been referred to by either party as an exhibit in their case shall not be considered by the Hearing Committee.

XI. Record of Hearing

A record of the hearing shall be kept. The Chief Operating Officer, or designee, shall select the method to be used for making the record such as a court reporter, electronic recording unit, detailed transcription or minutes of the proceedings. The deliberations of the Hearing Committee will not be recorded or transcribed. The Wichita Center for Graduate Medical Education shall pay any costs for recording the hearing, but the party which requests a transcript shall be responsible for the costs of the transcription of the hearing.

XII. Deliberations and the Hearing Committee Report

Deliberations of the Hearing Committee shall be scheduled by the Presiding Officer according to the Committee members' schedules. The final decision of the Hearing Committee shall be decided by a majority vote. The vote may be taken by voice or in writing.

Within five (5) weekdays after final deliberation of the hearing, the Hearing Committee shall make a written report of its findings and recommendations and shall forward them to the director of the residency program, to the resident in question and to the Chief Operating Officer, or designee. The written report may be delivered in person or by certified or registered mail. If delivered in person, a receipt will be signed. If any party refuses to sign the hand-delivered receipt, then such refusal shall be considered as an acknowledgment of delivery and noted on the receipt.

The committee may decide to:

- a. Affirm the decision of the Program Director
- b. Overrule the decision of the Program Director
- c. Set or modify the probationary status for the resident. Any probationary action which is either approved or determined by the Hearing Committee shall have a definite time limit and shall have requirements which are reasonable in

light of the circumstances to which they respond. The time limit and requirements shall be in writing.

- d. Dismiss the resident, which action shall take effect on the date stated in the Notice of Adverse Action or immediately.

The decision shall be immediately effective and appropriate action shall be promptly implemented. The decision shall be final and cannot be appealed through any person or entity affiliated with the Wichita Center for Graduate Medical Education.

XIII. Resident Compensation

A resident shall continue to draw his/her salary according to the agreement until completion of the Grievance Procedure. If the resident physician's recommended termination or non-renewal of agreement is upheld by the Hearing Committee, continued compensation will be made in keeping with terms of the Wichita Center for Graduate Medical Education employment agreement.

This agreement states that termination of salary and benefits will occur thirty (30) days after written notice of dismissal is provided to the resident or the date on which the due process hearing panel upholds the notice of dismissal, whichever date is later.

Revised & Approved: WCGME Board (4-17-01)
WCGME Residency Committee (3/02)
WCGME Board of Directors (4/02)