

CHS CLINICAL AND HEALTH PSYCHOLOGY POSTDOCTORAL PROGRAM DUE PROCESS AND GRIEVANCE PROCEDURES

This document establishes a definition of problematic professional competence, a listing of possible sanctions and an explicit discussion of the due process procedures as it pertains to Cherokee Health Systems' Clinical and Health Psychology Postdoctoral training program. Also included are important considerations in the remediation of such problems.

I. Definition of Problematic Professional Competence

Problematic Professional Competence is defined broadly as an interference in professional functioning which is reflected in one or more of the following ways: 1) an inability and/or unwillingness to acquire and integrate professional standards into one's repertoire of professional behavior; 2) an inability to acquire professional skills in order to reach an acceptable level of competency; and/or 3) an inability to control personal stress, strong emotional reactions, and/or psychological dysfunction which interfere with professional functioning.

It is a professional judgment as to when a Postdoctoral Fellow's level of professional competence becomes problematic rather than of concern. A trainee may exhibit behaviors, attitudes or characteristics which, while of concern and requiring remediation, are not unexpected or excessive for professionals in training. Problems typically become identified as problematic professional competence when they include one or more of the following characteristics:

1. The Fellow does not acknowledge, understand, or address the problem when it is identified
2. The problem is not merely a reflection of a skill deficit which can be rectified by academic or didactic training
3. The quality of services delivered by the Fellow is sufficiently negatively affected
4. The problem is not restricted to one area of professional functioning
5. A disproportionate amount of attention by training personnel is required
6. The trainee's level of professional competence does not change as a function of feedback, remediation efforts, and/or time

II. Remediation and Sanction Alternatives

It is important to have meaningful ways to address problematic professional competence once it has been identified. In implementing remediation or sanction interventions, the training staff must be mindful and balance the needs of the problematic Postdoctoral Fellow, the patients/clients involved, the training staff, and other agency personnel.

1. Verbal Warning to the Fellow emphasizes the need to address the areas of problematic professional competence. No record of this action is kept.
2. Written Acknowledgment to the Fellow formally acknowledges:
 - a) that the Training Director (TD) is aware of and concerned with the performance rating
 - b) that the concern has been brought to the attention of the Fellow,
 - c) that the TD will work with the Fellow to rectify the problem or skill deficits, and
 - d) that the manifestations of the problematic professional competence associated with the rating are not significant enough to warrant more serious action.

The written acknowledgment will be removed from the Fellow's file when the Fellow responds to the concerns and successfully completes the program.

3. Written Warning to the Fellow indicates the need to address the area of problematic professional competence. This letter will contain:
 - a) description of the Fellow's unsatisfactory performance;
 - b) actions needed by the Fellow to correct the area of problematic professional competence;
 - c) the time line for correcting the problem;
 - d) what action will be taken if the problem is not corrected; and
 - e) notification that the Fellow has the right to request a review of this action.

The Postdoctoral Fellow's supervisor or TD can initiate the Written Warning, but in no case will a Written Warning be presented without the prior approval of the TD. A copy of this letter will be kept in the Fellow's file. The TD, in consultation with the Fellow's supervisor, Chief Compliance Officer (CCO) and Chief Executive Officer (CEO), may give consideration to removing this letter at the end of the postdoctoral program. If the letter is to remain in the file, documentation should contain the position statements of the parties involved in the dispute.

4. Schedule Modification is a time-limited, remediation-oriented, closely supervised period of training designed to return the Postdoctoral Fellow to an appropriate level of professional competence. Modifying the Fellow's schedule is an accommodation made to assist the Fellow in responding to personal reactions to environmental stress, with the full expectation that the trainee will complete the program. This period will include more closely scrutinized supervision conducted by the regular supervisor in consultation with the TD. Several possible and perhaps concurrent courses of action may be included in modifying a schedule. These include:
 - a) increasing the amount of supervision, either with the same or other supervisors;
 - b) change in the format, emphasis, and/or focus of supervision;
 - c) recommending personal therapy (a list of community practitioners will be provided by the CCO);
 - d) reducing the Fellow's clinical or other workload;
 - e) requiring specific academic coursework.

The TD, in consultation with the Postdoctoral Fellow's supervisor, CCO, and CEO, will determine the length of a schedule modification period. The termination of the schedule modification period will be determined, after discussions with the Fellow, by the TD in consultation with the Fellow's supervisor, CCO and CEO.

5. Probation is also a time limited, remediation-oriented, more closely supervised training period. Its purpose is assessing the ability of the Fellow to complete the program and to return to an appropriate level of professional competence. Probation defines a relationship that the TD systematically monitors for a specific length of time the degree to which the Fellow addresses, changes and/or otherwise improves the areas associated with the inadequate rating. The Fellow is informed of the probation in a written statement which includes:

- a) the specific areas and manifestations of problems associated with the unacceptable rating;
- b) the recommendations for rectifying the problem;
- c) the time frame for the probation during which the problem is expected to be ameliorated, and
- d) the procedures to ascertain whether the problem has been appropriately rectified.

If the TD determines that there has not been sufficient improvement in the Postdoctoral Fellow's identified areas of problematic professional competence to remove the Probation or modified schedule, then the TD will discuss with the Fellow's supervisor, CCO, and CEO possible courses of action to be taken. The TD will communicate in writing to the Fellow that the conditions for revoking the probation or modified schedule have not been met. This notice will include the course of action the TD has decided to implement. These may include continuation of the remediation efforts for a specified time period or implementation of another alternative. Additionally, the TD will communicate to the CCO and CEO that if the Fellow's area of problematic professional competence does not change, the Fellow will not successfully complete the program.

6. Suspension of Direct Service Activities requires a determination that the welfare of the Postdoctoral Fellow's patient/client has been jeopardized. Therefore, direct service activities will be suspended for a specified period as determined by the TD in consultation with the CCO and CEO. At the end of the suspension period, the Fellow's supervisor, in consultation with the TD, will assess the Fellow's capacity for competence and determine when direct service can be resumed.
7. Administrative Leave involves the temporary withdrawal of all responsibilities and privileges in the agency. If the Probation Period, Suspension of Direct Service Activities, or Administrative Leave interferes with the successful completion of the training hours needed for completion of the program, this will be noted in the Postdoctoral Fellow's file. The TD will inform the Fellow of the effects the administrative leave will have on the Fellow's stipend and accrual of benefits.
8. Dismissal from the Postdoctoral Program involves the permanent withdrawal of all agency responsibilities and privileges. When specific interventions do not, after a reasonable time period, rectify the identified problems and the trainee seems unable or unwilling to alter her/his area of problematic professional competence, the TD will discuss with the CCO and CEO the possibility of termination from the training program or dismissal from the agency. Either administrative leave or dismissal would be invoked in cases of severe violations of the APA Code of Ethics, or when imminent physical or psychological harm to a patient/client is a major factor, or when the Postdoctoral Fellow is unable to complete the internship due to physical, mental or emotional illness.

III. Procedures for Responding to Inadequate Performance by a Postdoctoral Fellow

If a Postdoctoral Fellow receives an "unacceptable rating" from any of the evaluation sources in any of the major categories of evaluation, or if a staff member has concerns about a Fellow's

professional competence (including ethical or legal violations) the following procedures will be initiated:

1. The staff member will consult with the TD to determine if there is reason to proceed and/or if the area of professional competence in question is being rectified.
2. If the staff member who brings the concern to the TD is not the Postdoctoral Fellow's supervisor, the TD will discuss the concern with the Fellow's supervisor.
3. If the TD and supervisor determine that the alleged problem in the complaint, if proven, would constitute a serious violation, the TD will inform the staff member who initially brought the complaint; and
4. The TD will meet with the postdoctoral supervisors to discuss the performance rating or the concern.
5. The TD may meet with the CCO and CEO to discuss the concerns and possible courses of action to be taken to address the issues.
6. The TD, supervisor, CCO, and CEO may meet to discuss possible course of actions.
7. Whenever a decision has been made by the TD (in consultation with the CCO and/or CEO) about a Postdoctoral Fellow's training program or status in the agency, the TD will inform the Fellow in writing and will meet with the Fellow to review the decision. This meeting may include the Fellow's supervisor.
8. The Postdoctoral Fellow may choose to accept the conditions or may choose to challenge the action. The procedures for challenging the action are presented below.

IV. Due Process: General Guidelines

Due process ensures that decisions about Postdoctoral Fellow's are not arbitrary or personally based. It requires that the training program identify specific evaluative procedures which are applied to all trainees, and provide appropriate appeal procedures available to the Fellow. All steps need to be appropriately documented and implemented. General due process guidelines include:

1. During the orientation period, presenting to the Postdoctoral Fellow, in writing, the program's expectations related to professional functioning. Discussing these expectations in both group and individual settings.
2. Stipulating the procedures for evaluation, including when and how evaluations will be conducted. Such evaluations should occur at meaningful intervals.
3. Articulating the various procedures and actions involved in making decisions regarding problematic professional competence.
4. Instituting, when appropriate, a remediation plan for identified inadequacies, including a time frame for expected remediation and consequences of not rectifying the inadequacies.
5. Providing a written procedure to the Postdoctoral Fellow which describes how the Fellow may appeal the program's action.
6. Ensuring that the Fellow has sufficient time to respond to any action taken by the program.
7. Using input from multiple professional sources when making decisions or recommendations regarding the Fellow's performance.
8. Documenting, in writing and to all relevant parties, the actions taken by the program and its rationale.

V. Due Process: Procedures

The basic meaning of due process is to inform and to provide a framework to respond, act or dispute. When a matter cannot be resolved between the TD and Postdoctoral Fellow or staff, the steps to be taken are listed below.

A. Grievance Procedure

There are two situations in which grievance procedures can be initiated.

1. In the event a Postdoctoral Fellow encounters any difficulties or problems (e.g., poor supervision, unavailability of supervisor, evaluations perceived as unfair, workload issues, personality clashes, other staff conflict) during his/her training experiences, the Fellow can:
 - a. Discuss the issue with the staff member(s) involved;
 - b. If the issue cannot be resolved informally, the Fellow should discuss the concern with the his/her supervisor (or TD if the supervisor is the problem);
 - c. If the issue cannot be resolved informally, the Fellow should discuss the concern with the TD, or the CCO or CEO (if issue involves the TD);
 - d. If the TD, or the CCO and/or CEO cannot resolve the issue, the Fellow can formally challenge any action or decision taken by the TD, the supervisor or any member of the training staff by following this procedure:
 - i. The Postdoctoral Fellow should file a formal complaint, in writing and all supporting documents, with the TD. If the Fellow is challenging a formal evaluation, the Fellow must do so within 5 days of receipt of the evaluation.
 - ii. Within three days of a formal complaint, the TD must consult with the CCO and CEO and implement Review Panel procedures as described below.
2. If a training staff member has a specific concern about the Postdoctoral Fellow, the staff member should:
 - a. Discuss the issue with the Fellow.
 - b. Consult with the TD.
 - c. If the issue is not resolved informally, the staff member may seek resolution of the concern by written request, with all supporting documents, to the TD for a review of the situation. When this occurs, the TD will:
 - i. Within three days of a formal complaint, the TD must consult with the CCO and CEO and implement Review Panel procedures as described below.

B. Review Panel and Process

1. When needed, a review panel will be convened by the CCO. The panel will consist of three staff members selected by the CCO with recommendations from the TD and the Fellow involved in the dispute. The Fellow has the right to hear all facts with the opportunity to dispute or explain the area of concern.

2. Within five (5) workdays, a hearing will be conducted in which the challenge is heard and relevant material presented. Within three (3) workdays of the completion of the review, the Review Panel submits a written report to the CCO, including any recommendations for further action. Recommendations made by the Review Panel will be made by majority vote.

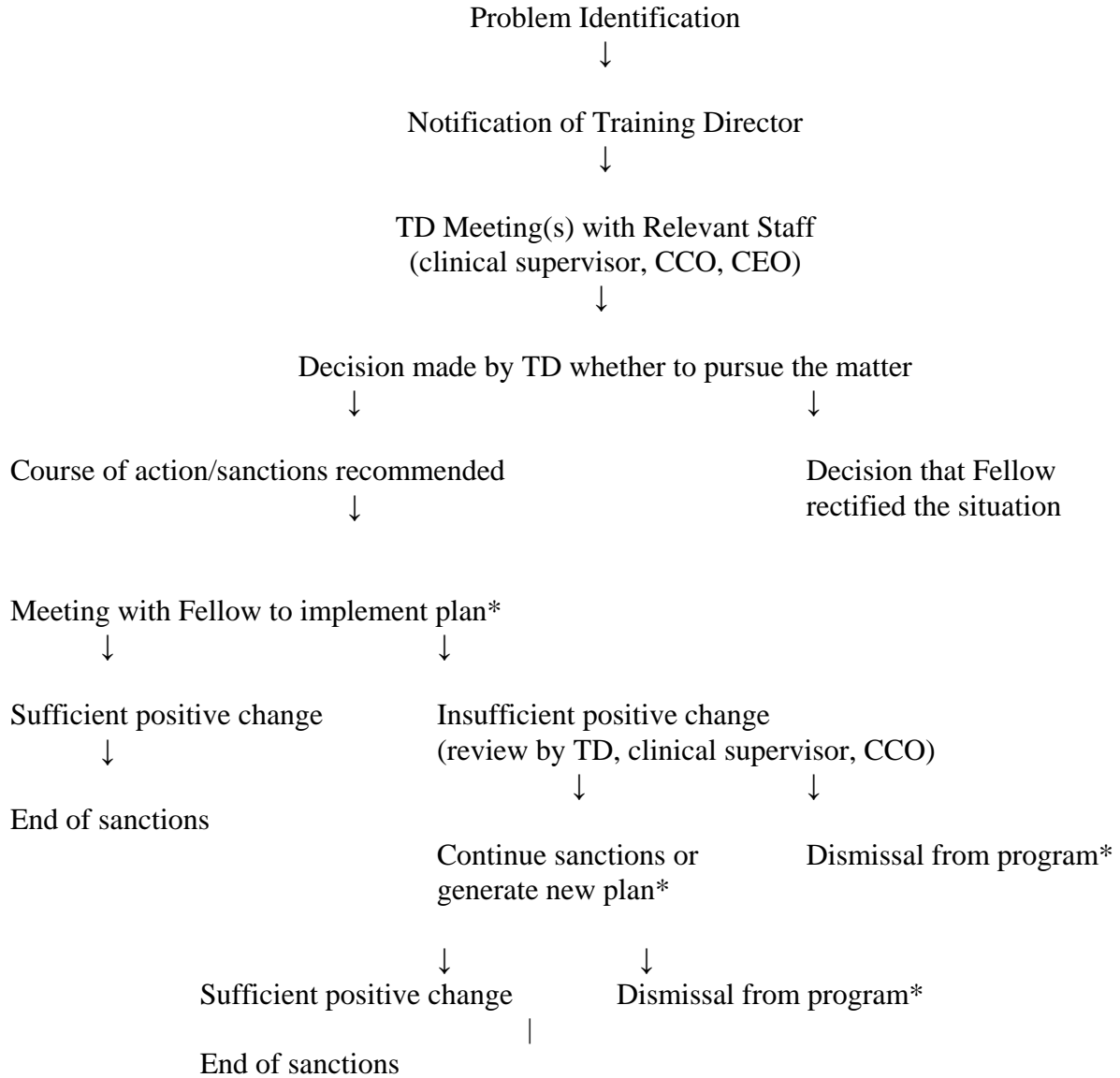
3. Within three (3) workdays of receipt of the recommendation, the CCO will either accept or reject the Review Panel's recommendations. If the CCO rejects the panel's recommendations, due to an incomplete or inadequate evaluation of the dispute, the CCO may refer the matter back to the Review Panel for further deliberation and revised recommendations or may make a final decision.

4. If referred back to the panel, they will report back to the CCO within five (5) workdays of the receipt of the CCO's request of further deliberation. The CCO then makes a final decision regarding what action is to be taken.

5. The TD informs the Postdoctoral Fellow, staff members involved and if necessary members of the training staff of the decision and any action taken or to be taken.

6. If the Fellow disputes the CCO's final decision, the Fellow has the right to contact the CEO to discuss this situation.

**Due Process in Action:
Flow Chart**



*Fellow may challenge at this time.