

# **Arkansas Rural Medical Practice Student Loan and Scholarship Board Dispute Resolution Procedures**

The Arkansas Rural Medical Practice Student Loan and Scholarship Board is an agency of Arkansas created by Act 131 of 1949, A.S.A. § 80-2916 and Ark. Code Ann. § 6-81-701. The Legislature has delegated to the Board authority to promulgate and adopt rules which establish a dispute resolution procedure that may be used by a loan recipient, the board, or a qualified rural community to resolve any dispute arising out of or relating to a rural practice or community match loan contract, including the validity or interpretation of a contract term, contract enforcement or defenses, the occurrence of an event of default or breach, loan repayment, the assessment or imposition of contract damages or civil money penalties, or other related disputes. Ark. Code Ann. § 6-81-714. The objective of the dispute resolution procedure is to encourage and promote communications between the board, loan recipients and qualified rural communities and to provide a forum to resolve disputes as quickly and efficiently as possible with a minimum of expense to all parties involved. This dispute resolution procedure shall not be considered an “adjudication” as defined in Ark. Code Ann. § 25-15-202 (1)(A).

## **Informal Settlement Conference**

The dispute resolution process shall commence upon receipt by the administrator of a written appeal request from a loan recipient or a qualified rural community, or upon written request of a loan recipient, qualified rural community or the Board to resolve any dispute which has arisen of a written appeal request from a loan recipient or a qualified rural community, or upon written request of a loan recipient, qualified rural community or the Board to resolve any dispute which has arisen between the parties or that relates to the loan contract. Such requests shall be served upon the Administrator of the Board by certified mail. The request shall be in writing and shall be signed by the person or persons making said request. In addition, the request shall be mailed to the Arkansas Rural Medical Practice Student Loan and Scholarship Board within twenty (20) days of the notice of the Board decision at issue. The written request shall contain the following information:

1. The full name, address, electronic mail address and telephone number of the loan recipient, or, in the case of a request filed by a qualified rural community, the name of the community, full name and address of the community contact representative along with a telephone number. All requests for submission to the dispute resolution process shall also contain the names and addresses of all other parties to the loan contract;
2. The written request should also include, if known, the any individual, partnership, corporation, association or public or

private organization of any character which may have an interest to the subject matter of the dispute resolution proceeding;

3. Identification of the Board action or decision which is being appealed and a brief description of the nature of the dispute and the issues to be resolved. In the event that the request does not involve the appeal of a Board decision, then the request shall simply contain a brief description of the nature of the dispute and the issues to be resolved; and
4. Copies of any contracts, agreements or other documentation which may be relevant to a successful resolution of the dispute in question.

Upon receipt of the written request for participation in the dispute resolution procedure, the Administrator for the Board shall mail a copy of the request for participation to all other parties to the contract (the “responding parties”) along with copies of all attachments provided by the party requesting participation in the dispute resolution process (the “requesting party”). The copy of the request received by the Board shall be mailed to the responding party (parties) by certified mail at the parties last known address. The responding party must file a written response to the request for participation in the dispute resolution process. This response must be received in the office of the Administrator for the Board within twenty (20) days from the date of their receipt of the written request. The responding parties must include a brief description of the nature of the dispute and issues to be resolved in their response, along with any contracts, agreements or other relevant documentation which was not provided by the requesting party. A copy of the response shall also be mailed to all other parties to the loan contract by certified mail.

No later than twenty (20) days after the Administrator’s receipt of the responding party’s written response, the Administrator shall informally communicate with the parties and identify and request any additional documentation or information from the parties which s/he believes may be relevant to resolving the dispute. The information requested by the Administrator shall be produced by the applicable party within ten (10) days of the date of the Administrator’s written request. The Administrator will evaluate the request, response, documentation and other information provided by all parties and communicate informally with the parties to determine whether the disputes can be satisfactorily resolved.

If the parties are unable to resolve a dispute through communications facilitated by the Administrator, all parties will be required to attend at least one (1) informal settlement conference moderated by the Administrator in a location agreed upon by the participants. The informal settlement conference shall be held no later than sixty (60) days from the date when the Administrator receives the initial written request for participation in the dispute resolution process. At their option, the parties and the Board may be represented by counsel or any representative. The purpose of the informal

settlement conference will be to facilitate an environment where the parties shall meet in person to resolve the dispute informally with the assistance of the Administrator; the conference is not a hearing and no witnesses, arguments from counsel and submission of evidence will be permitted. If a party fails to cooperate with the Administrator or fails to appear for the informal settlement conference, the remaining party (parties) shall then be eligible to appeal the matter to the Dispute Resolution Sub-Committee.

## **Dispute Resolution Sub-Committee**

### **I. Composition**

The Dispute Resolution Sub-Committee shall consist of three (3) members of the Arkansas Rural Medical Practice Student Loan and Scholarship Board with one (1) representative of the College of Medicine of the University of Arkansas for Medical Sciences, one (1) representative from the Board appointed by the Arkansas Medical Society Ark. Code Ann. § 6-81-702 (a)(1)(B) and (E) and one (1) representative from the Board appointed by the Arkansas Hospital Association under Ark. Code Ann. § 6-81-702 (a)(1)(F). The Chair of the Board shall appoint the members of the Dispute Resolution Sub-committee during the last regularly schedule meeting of each calendar year.

The Dispute Resolution Sub-Committee shall meet quarterly. The Sub-Committee may meet more frequently, if necessary, or less frequently if there are no matters to be heard. In the event that any Dispute Resolution Sub-Committee member has a conflict, for any reason, with the parties or subject matter of the dispute, the Chairman of the Board shall have the power to appoint a substitute member from the remaining members of the Board.

### **II. Procedures**

In the event that the parties do not successfully reach an agreed upon resolution during the initial informal conference in this process, the matter shall be referred to the Dispute Resolution Sub-Committee. Such a referral shall only occur under the following circumstances:

1. After the parties have had the opportunity to attend no less than one (1) informal settlement conference, or after one or more of the parties has refused to attend the conference or cooperate in the initial phase of the dispute resolution process. In the event that one or more parties has either failed or refused to attend the informal settlement conference, this requirement will not be a pre-requisite before the matter can be referred to the Dispute Resolution Sub-Committee; and
2. Upon written notice to the Board by one or more parties to the loan contract stating that the parties have made a good faith effort to resolve the

issues without success. This letter shall be served upon the Administrator of the Board by certified mail.

Within twenty (20) days of the receipt of this letter, the Dispute Resolution Sub-Committee shall issue a letter to all parties involved notifying each of the referral of the matter to the Sub-Committee. Such requests shall be served upon the parties by certified mail. The referral letter shall also contain the following information:

- a. The date, time and place of the meeting of the Sub-Committee during which the loan contract dispute matter will be considered, which shall be no less than thirty (30) days from the issuance of the a Sub-Committee letter to all parties involved notifying each of the referral of the matter to the Sub-Committee;
- b. All parties may be represented by counsel and may appear before the Dispute Resolution Sub-Committee to present arguments and answer any questions which may be posed by the members of the Sub-Committee;
- c. All parties may submit additional documentary evidence and written arguments supporting their position within twenty (20) days of the receipt of the letter from the Sub-Committee and no later than ten (10) days prior to the Sub-Committee meeting scheduled to consider the dispute;
- d. The evidence which may be submitted may include documentary evidence, affidavits, depositions and pleadings and orders from previous matters related to the loan contract in question; and
- e. Any and all correspondence, evidence and/or arguments submitted to the Sub-Committee by any party shall also be simultaneously provided to all other parties to the dispute.

At the meeting before the Dispute Resolution Sub-Committee, the parties shall have the right to participate, be represented by counsel, the right to present oral testimony before the Sub-Committee and to engage in oral argument. If a party fails to appear or participate in the Sub-Committee meeting after proper notice, the Sub-Committee may proceed with the meeting in the absence of the party.

The Dispute Resolution Sub-Committee shall make a written recommendation for resolving the loan contract dispute within ten business (10) days of the meeting with the parties. The recommendation shall be mailed, in letter form, to each party, via certified mail. The letter shall contain of the recommendation of the Dispute Resolution Sub-Committee and notice to the parties of their right to appeal the findings to the full

Arkansas Rural Medical Practice Student Loan and Scholarship Board within twenty (20) days of the date of receipt of the letter.

### **Appeal to the Full Board**

The written notice of a party's request to appeal the recommendation of the Dispute Resolution Sub-Committee must be received by the Board within twenty (20) days of the date on which they were served with the letter from the Dispute Resolution Sub-Committee. The notice must: (1) identify the reason(s) that the appealing party disputes the recommendation of the Sub-Committee; and (2) present the appealing party's suggestions for an alternative resolution. The notice must be submitted to all parties simultaneously with its submission to the Board via certified mail. Each responding party shall have ten (10) days from the date of receipt of the request to appeal to mail a written response to the Board containing its response to the appealing party arguments and presenting any suggestions for an alternative resolution it deems acceptable. Within twenty (20) days of receipt of the notice of appeal, the Board shall send each party a notice, via certified mail, which shall contain the following information:

- a. The date, time and place of the meeting of the Board during which the loan contract dispute matter will be considered, which shall be the next scheduled Board meeting at the time of the notice. In any event, the appeal shall be heard no less than sixty (60) days following the receipt of the request to appeal the Sub-Committee's recommendation;
- b. All parties have the right to appear and participate and to be represented by counsel;
- c. All parties may supplement the evidence previously submitted with additional documentary evidence, if necessary, and/or written arguments supporting their position within twenty (20) days of the receipt of the notice from the Board and no later than ten (10) days prior to the Board meeting scheduled to consider the dispute;
- d. Additional evidence which may be submitted may include documentary evidence, affidavits, depositions and pleadings and orders from previous matters related to the loan contract in question; and
- e. Any and all correspondence, evidence and/or arguments submitted to the Board by any party shall also be simultaneously provided to all other parties to the dispute.

The Chair of the Board shall serve as the presiding officer for the meeting on the appeal before the Board. Any member of the Board that sat as a Dispute Resolution Sub-Committee member for the dispute at issue shall not participate in the appeal of the dispute to the full board.

The Board shall make a final written recommendation for resolving the loan contract dispute within ten (10) days of the meeting with the parties. The recommendation shall be mailed, in letter form, to each party via certified mail. The letter shall contain the Board's final recommendation for a resolution of the dispute and notice that, if the parties have not reached a resolution of the dispute within thirty (30) days of the Board's recommendation, the loan recipient's license to practice medicine may be suspended under the provisions of Ark. Code Ann. § 6-81-708(c)(2) should the Board obtain an order from a Circuit Court of competent jurisdiction in the State of Arkansas finding the loan recipient in breach of their rural medical practice loan.

### **Application to Chairman of the Board for Waiver**

A rural medical practice loan recipient may seek a waiver of the requirements of Ark. Code Ann. § 6-81-708(c)(2) by making written application to the Chairman of the Board with a statement explaining the exigent circumstances the loan recipient believes justify a waiver. The waiver request must be submitted within thirty (30) days of the date the Board's final recommendation and cannot be requested unless the loan recipient has participated in the entire dispute resolution process in good faith. The waiver request will be considered in accordance with Ark. Code Ann. § 6-81-708(e)(1) and the loan recipient shall be notified in writing of the decision.