

Grievance Procedures

Description: The Ryan White Program requires that every Planning Council have a grievance procedure in place to resolve disputes related to processes such as priority-setting, funding allocations, and membership representation. *Grievance Procedures* describes the Council's philosophy regarding conflict resolution and provides step-by-step instructions for non-binding and binding procedures. See *the Informal Dispute Resolution Process* for concerns related to Council operations that are not covered in this document.

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Approved: June 2007

Portland Area HIV Services Planning Council

GRIEVANCE PROCEDURES

I. BACKGROUND

A. Who May Bring a Grievance

Individuals or entities directly affected by the outcome of a Planning Council decision related to funding or Council operations are eligible to file a formal grievance with the Planning Council. Directly affected parties are defined as 1) providers eligible to receive Ryan White funds; 2) consumer groups/people living with HIV (PLWH) coalitions and caucuses; and 3) Individual PLWH who are eligible to receive Ryan White services.

B. Basis for Grievances

Parties meeting the above criteria are eligible to grieve deviations from the Council's bylaws and the established written processes for the following:

- Council's priority setting process
- standards for meeting established priorities
- funding allocations according to priorities
- process for changing priorities or allocations
- membership representation/appointment process

C. Overview of Steps to Resolve Conflicts

The operations of the Planning Council are governed by its bylaws. These exist in order for the Council to effectively carry out its mission and adhere to the Ryan White Program as amended in 2006. The grievant is encouraged to first take any disputed issue to the Planning Council Co-Chair(s). If no resolution can be reached, the grievant is encouraged to contact Council staff, who will ensure that the issue is addressed by the Operations Committee. If the dispute still cannot be resolved, a third-party mediator shall be contacted. Should mediation fail, then binding arbitration shall be pursued.

D. Confidentiality

The degree of confidentiality maintained during the dispute resolution process is governed by the Oregon Public Records Law, ORS 192.410 to 192.505 and other applicable federal, state, and local laws.

II. PROCEDURES FOR RESOLVING CONFLICTS

A. Overview

It is the goal of the Planning Council to be inclusive, open, and fair in its operations and decision-making processes. It is highly desirable to address issues of concern in a timely and expeditious manner. Because there are costs associated with dispute resolution, the Council is committed to handling grievances informally before using more formal methods, such as mediation or arbitration. Grievants should follow the steps below to resolve conflicts:

B. Non-Binding Procedures for Resolving Conflicts

1. Informal Non-binding Dispute Resolution

Any one with an issue or dispute that needs to be resolved is encouraged to contact Council staff at the Council office at 3653 SE 34th Ave, Portland, OR 97202, tel. (503) 988-3030.

- Staff will explain the grievance procedure and provide a copy of the Council's Grievance Procedures.
- With the grievant's acknowledgment, Council staff will refer the issue to the Operations Committee.
- Council staff will also inform the grievant of the date, time, and place of the committee meeting at which this disputed issue will be addressed.
- The issue will be addressed by the appropriate Council entity within 30 days of staff notification.

TABLE #1 (Informal non-binding Dispute Resolution)	
Step to achieve resolution to grievance	Number of allowable days per step
The Council Staff will respond to a party's issue or dispute, explain the process, and provide a copy of grievance procedures.	2-5 working days
Refer to Operations Committee and inform grievant of date, time and place of meeting.	5-10 working days
The issue will be addressed by the appropriate Council entity	within 30 days of staff notification

2. Formal Non-binding Dispute Resolution (Mediation)

The Council's rules for formal non-binding dispute resolution include the following:

a. Initiating Mediation

If resolution of the disputed issue is not achieved by informal non-binding dispute resolution (as described above):

- The grievant is encouraged to complete a *Request for Mediation Form* (Attachment A).
- The form should be returned to the Council staff at 3653 SE 34th Ave, Portland, OR 97202, tel. (503) 988-3030.
- Council staff will make arrangements for third-party mediation of the issue and a time and place that are acceptable to all parties.

b. Process and Timelines

The number of working days assigned to each step in Table #2 below may vary within the range identified but the total number of working days for completing the entire process shall not exceed 45 days. The steps described below shall occur in the order listed. Time periods run consecutively.

TABLE #2 (Non-binding mediation)	
Step to achieve resolution to grievance	Number of allowable days per step
The Council Staff will respond to a party's filing of the Request for Mediation Form	2-5 working days
Determination by Council's Operations Committee that grievant and grievance fall within scope of procedures. Grievant notified.	4-7 working days
Contact of pre-designated third party to begin non-binding mediation	5 to 10 working days
Meeting of parties with mediator, if necessary	10 to 15 working days
Resolution of grievance—or—decision by mediator not to continue due to impasse. Inform parties how to pursue binding arbitration	15-20 working days

C. Binding Arbitration

The Council's rules for the arbitration process include the following:

1. Arbitration Organization

The Council has designated an arbitration organization to receive requests by the grievant for binding arbitration.

2. Initiating Binding Arbitration

At the conclusion of an unsuccessful non-binding mediation, the Council Staff will provide the grievant with a *Request for Arbitration Form* (Attachment B) to complete and return to the Council staff or the arbitration organization. This will initiate the binding arbitration process.

3. Process and Timeline

The number of working days assigned to each step described below may vary within the range identified but the total number of working days for completing the entire process shall not exceed 35 days. The steps described in Table #3 below shall occur in the order listed. Time periods run consecutively.

TABLE #3 (Binding Arbitration)	
Step to achieve resolution to grievance	Number of allowable days per step
Arbitration organization will respond to grievant's filing of the <i>Request for Arbitration Form</i>	5-10 working days
A hearing, if necessary, will be held with all the parties	10 to 15 working days
The arbitrator will render and communicate a decision	15 to 20 working days

4. Hearing Location and Time

The Council Staff or its designated third party will arrange for a hearing location and time acceptable to all parties.

III. GENERAL RULES FOR GRIEVANCE PROCESS

A. Length of Time to Bring a Grievance Related to Funding

In order to insure continuity of the Council's process and prevent delays in the provision of services, a grievance may be considered only up to 30 calendar days after a funding decision has been made by the Council.

B. Funding of Projects After a Grievance is Filed

Actions taken in resolution of grievances will be applied prospectively, with regard to funding of projects, and thus will not include reversals of previously established priorities and allocations.

C. Costs

The steps involved in administering the grievance process may include fees for third party mediators and arbitrators. To balance the need for recovery of reasonable costs of administering the grievance process, without discouraging the filing of legitimate grievances, the Planning Council has established the following policy:

Whenever possible, the Council will attempt to secure appropriate mediation and arbitration services at no cost. In the event that fees are charged by the mediator or arbitrator, the Council and grievant will share equally the cost (payable prior to the first session) if the grievant is a provider. If the grievant is an individual (non-provider) living with HIV who is eligible for Part A services, he/she will not be required to share the cost of mediation/arbitration services.

D. Eligibility

The Council's Operations Committee determines if the party is eligible, under the procedures, to be a grievant and if the subject of the dispute qualifies as a grievance. The committee relies upon the Council's grievance procedures (see *Section I: Background*) in determining who is an eligible grievant and what is an eligible grievance. The Council's procedures reflect the Health Resources and Services Administration (HRSA) requirements and the Model Grievance Procedures.

E. Council Record Keeping

The Operations Committee and Council staff will keep records documenting receipt of grievance forms and will review all grievances, even those that are deemed "refused" (found not to be eligible under the procedures).

F. Selection of Third Parties

The Planning Council will select an independent mediation/arbitration organization to assist in the grievance process. This organization will arrange for a specific third-party mediator or arbitrator to hear a particular grievance, upon notification from the grievant. In its selection of the mediation/arbitration organization, the Council will consider a number of factors, including conflicts of interest, training and experience, cost and availability to perform in the required time frame. Selected third parties will be independent of the specific process that is the subject of the dispute, and will not have any direct interest in the decision that is the subject of the grievance.

Portland Area HIV Services Planning Council

REQUEST FOR NON-BINDING MEDIATION

ATTACHMENT A

Note: Before completing this form be sure to read the Ryan White Part A Portland Area HIV Services Planning Council Grievance Procedures dated _____.

Please type or print clearly. Use additional pages if necessary.

Please submit this form and supporting documentation, if any, to the Portland Area HIV Services Planning Council Staff (at 3653 SE 34th Ave, Portland OR 97202) who will submit it to the Mediation Organization.

Date: _____

The undersigned party(ies) submit(s) the following request for mediation to seek resolution under the grievance procedures of the Portland Area HIV Services Planning Council.

PLEASE check one of the boxes below to indicate which of the following eligible categories applies to you:

- Provider eligible to receive Ryan White funds
- Consumer group/People living with HIV (PLWH) coalition or caucus
- Individual PLWH who is eligible to receive Ryan White services

STATEMENT OF GRIEVANCE

Please describe the basis for this grievance. Include all pertinent information including dates, names of parties involved, and deviations from established Planning Council processes. Describe in what way you have been directly affected by the decision of the Planning Council. Include any documentation that may support your position.

PREVIOUS ATTEMPTS TO RESOLVE DISPUTE

What, if any, previous attempts have been made at resolution? Indicate results of previous attempts through non-binding processes.

REMEDY SOUGHT BY THE GRIEVANT

Remedies related to funding/allocations decisions shall be limited to future actions (i.e., these decisions will not be reversed retroactively).

I understand that, if there is a cost associated with mediation services, the fees must be paid prior to mediation. Certain categories of grievants are exempt from payment (see accompanying Grievance procedures for details).

Name of organization/provider/individual

Name of individual authorized to sign for organization

Address

City/State/Zip code

(____)_____
Telephone #

Fax #

Signature

Date

This section for Planning Council Use only:

Grievance #_____

Date copy of Council Grievance Procedures given to grievant: _____

Date copy of *Request for Mediation Form* received by Planning Council _____

Portland Area HIV Services Planning Council

REQUEST FOR BINDING ARBITRATION FORM ATTACHMENT B

Note: Before completing this form be sure to read the Ryan White Part A Portland Area HIV Services Planning Council Grievance Procedures dated _____.

Please type or print clearly. Use additional pages if necessary.

Submit this form and supporting documentation, if any, to the Portland Area HIV Services Planning Council Staff (at 3653 SE 34th Ave, Portland OR 97202) who will submit it to the Arbitration Organization. Or you may submit this directly to the Arbitration organization, which will provide a copy to Council Staff.

Date: _____

The undersigned party(ies) submit(s) the following request for binding arbitration to seek resolution under the grievance procedures of the Portland Area HIV Services Planning Council.

Please check one of the boxes below to indicate which of the following eligible categories applies to you:

- Provider eligible to receive Ryan White funds
- Consumer group/People living with HIV (PLWH) coalition or caucus
- Individual PLWH who is eligible to receive Ryan White services

STATEMENT OF GRIEVANCE

Please describe the basis for this grievance. Include all pertinent information including dates, names of parties involved, and deviations from established Planning Council processes. Describe in what way you have been directly affected by the decision of the Planning Council. Include any documentation that may support your position.

PREVIOUS ATTEMPTS TO RESOLVE DISPUTE

What, if any, previous attempts have been made at resolution? Indicate results of previous attempts through non-binding processes such as mediation.

REMEDY SOUGHT BY THE GRIEVANT

Remedies related to funding/allocations decisions shall be limited to future actions (i.e these decisions will not be reversed retroactively).

Signature below constitutes agreement to be bound by the decision of the arbitrator. I understand that, if there is a cost associated with arbitration services, the fees must be paid prior to arbitration. Certain categories of grievants are exempt from payment (see accompanying Grievance procedures for details).

Name of organization/provider/individual

Name of individual authorized to sign for organization

Address

City/State/Zip code

(____)_____
Telephone #

Fax #

Signature

Date

This section for Planning Council Use only:

Grievance # _____

Date copy of Council Grievance Procedures given to grievant: _____

Date copy of *Request for Binding Arbitration Form* received by Planning Council _____

#1/policy & procedures/grievance/arbitration request form

Portland Area HIV Services Planning Council

Informal Dispute Resolution Process

The Portland Area HIV Services Planning Council has a formal dispute resolution process in place that provides for mediation and arbitration of concerns of individuals or entities directly affected by the outcome of a Planning Council decision relating to funding or Council operations. That process defines "directly affected parties" as (1) providers eligible to receive Ryan White funds; (2) consumer groups/people living with HIV (PLWH) coalitions and caucuses; and (3) individual PLWH who are eligible to receive Ryan White services. The formal dispute resolution process applies only to: (1) the Council's priority setting process; (2) standards for meeting established priorities; (3) funding allocations according to priorities; (4) the process for changing priorities or allocations; and (5) the membership representation/appointment process.

It is the desire of the Council to take seriously the concerns of its members, its committee members, staff and others affected by the operations of the HIV Services Planning Council beyond the basis for grievances contained in the formal dispute resolution process. To that end, this document sets forth an informal dispute resolution process designed to encourage those associated with Council operations to bring forward their concerns and to provide a forum in which concerns can be addressed.

- I. The Co-Chairs of the HIV Services Planning Council are designated as the persons to whom Council members, members of Council committees, staff and Grantee personnel (collectively referred to as "Council-related persons") may bring concerns about Council operations. Co-Chairs will meet with any Council-related persons that have a concern in order to understand the concern and frame it for resolution. The Co-Chairs may resolve the issue informally with the Council-related person(s), may proceed to steps III, IV, and V, below, or may communicate Council policy on the issue to the person raising the concern, thus ending the informal dispute resolution process.
- II. Individuals or entities that are not Council-related persons may also raise a concern with the Co-Chairs. In order to expedite the process of resolving these concerns, the Co-Chairs may delegate the resolution process for concerns of non-Council-related persons to a Grantee representative. The Grantee representative will follow the steps outlined in Sections III, IV, and V, below, and will keep the Co-Chairs informed of the progress of resolution.

- III. After meeting with the Council-related person(s) with a concern, the Co-Chairs may appoint an ad hoc working group of appropriate person(s) with which to raise the concern. The group may be one or more Council-related person(s), a committee of the Council, or the Council itself. The group will engage in a collaborative problem solving process designed to gather information regarding the problem, to generate discussion regarding the interests involved, and to reach an appropriate proposed solution. To the extent possible, the Co-Chairs will seek to include the Council-related person(s) who raised the concern in the collaborative problem solving process.

- IV. The Co-Chairs will discuss the proposed solution with the Council-related person(s) who raised the concern. If resolution is not possible through this informal process, the Co-Chairs will recommend to the Council-related person(s) that he, she, or they pursue the more formal dispute resolution processes, if appropriate.

- V. There are no specific time frames for resolution of concerns in this informal process. However, the Co-Chairs and the Council-related person(s) raising the concerns will seek to resolve them in a timely fashion, and will keep each other informed of progress at various stages of the process.

MANAGING CONFLICT OF INTEREST

1. All Council members and appointed committee members must sign a Conflict of Interest Disclosure Form, which is attached to their membership application. Applicants who have not signed the Disclosure Form will not be considered for Council or committee membership. Each member is given the opportunity to update their conflict of interest at every meeting. As necessary, each member must update their Disclosure Form in writing to reflect any changes related to affiliation.
2. Members are expected to declare all conflicts of interest at the beginning of each meeting, and to remind others taking part in a decision making process of their affiliations.
3. This conflict of interest policy applies to all Council business undertaken by Council and committee members, including committee work.
4. Council members with a declared conflict(s) should consider abstaining from voting on an issue when their conflict could be perceived to affect their decision-making. During discussion prior to a vote, these members may advocate for the issue.
5. If a perceived Conflict of Interest is identified that affects any action or vote, any council member may address the Council for two minutes and state the perceived Conflict of Interest issue.
6. In cases where a member acts in a manner inconsistent with the Council's conflict of interest policies, the Operations Committee may carry out disciplinary procedures. This process will include findings of fact, recommendations for corrective action, and in some cases a recommendation for removal of the member from the Council.
7. Staff will conduct all administrative duties related to the Disclosure Forms.

**Conflict of Interest Disclosure Form
Portland Area HIV Services Planning Council**

The Ryan White Program requires that specific categories of people in the community be represented on planning councils. Thus, some Council members may also serve as employees or board members of organizations eligible for Program funds. Other members may have other organizational affiliations or relationships with individuals who have such affiliations. Because of the potential for conflict of interest, this Disclosure Form must be completed by all Council members and applicants for membership.

A conflict of interest is defined as an actual or perceived interest by the member in an action that results or has the appearance of resulting in personal, organizational, or professional gain.

This actual or appearance of bias in the Council's decision-making process is based on the dual role played by Council members who are affiliated in some capacity (e.g., employee, board or advisory committee member) of an organization or agency which has received, may seek or is eligible for Part A Program funds. In most instances, conflict of interest *does not* refer to persons living with HIV (PLWH) whose only relationship to a Part A-funded organization or agency is as a client who receives or is eligible for services.

By my signature below, I, _____ certify that:
Please print your name here.

1. I have read, understand, and support the definition of Conflict of Interest given here.
2. (Please check one:)

I am either employed by, a consultant for, an officer of, or a board or advisory member of the following organization(s) which have received, may seek or are eligible for funding under Part A of the Ryan White HIV/AIDS Treatment Modernization Act of 2006. This declaration also extends to any family member. I declare the following conflict(s) of interest:

Organization:
Title:
Period of Affiliation:

Organization:
Title:
Period of Affiliation:

Please attach additional pages if necessary.

I have no apparent conflict(s) of interest.

Signature

Date