

Philadelphia EMA HIV Integrated Planning Council

Grievance Procedures

Approved May 10, 2001 (updated April 2018)

Preventing Grievances against the Planning Council

The Planning Council has developed and implemented a number of processes and procedures to ensure that planning activities are clearly articulated so that all parties have a common understanding of how planning is carried out. The structure of the Planning Council is designed to actively encourage the involvement of all stakeholders (especially people living with HIV) at every level of planning while, at the same time, maintaining effective and efficient decision-making processes. This open and inclusive environment generally allows for disputes to be handled informally and early. In extraordinary cases, disputes may not be able to be resolved through the regular conducting of business. The purpose of these grievance procedures is to address these extraordinary occasions.

What types of grievances may be brought against the Planning Council?

Grievances may be filed against the Planning Council for the following deviations from policy:

- Deviations from an established, written priority-setting or resource allocation process (for example, the Planning Council's failure to properly approve and vote on priorities, or not basing priorities on documented need).
- Deviations from an established, written process for any subsequent changes to priorities or allocations (for example, the Planning Council's reallocation of funds from one service category into a category that was not prioritized, or making reallocation decisions without properly approving and voting on the decision).

Who may bring grievances against the Planning Council?

- Providers eligible to receive Part A funding.
- Consumer groups, coalitions, or caucuses of people living with HIV or affected by HIV.
- While individuals are eligible to bring grievances, it is recommended that they bring grievances through a group, coalition, or caucus. To participate in bringing a grievance, a minor (person under the age of 18) must be represented by his or her parent, foster parent, or legal guardian.

It should be noted that while a grieving party may have legal counsel throughout this process, legal and attorney fees are entirely the responsibility of the grieving party.

Who represents the Planning Council in grievance proceedings?

During grievance proceedings (including non-binding mediation sessions and binding arbitration hearings), the Planning Council is represented by the Council's grievance review panel, appointed by the Council co-chairs (as described in step 3). These representatives may not enter into agreements on behalf of the Planning Council that would be binding on the Planning Council without the express prior permission of the Council. It should be noted that the Office of HIV Planning staff, while present throughout the process, does not represent the Planning Council.

How and when does one file a grievance against the Planning Council?

To file a grievance, one must use the formal "Grievance Form" available from the Office of HIV Planning, and the form must be completely filled out and must include a detailed description of the alleged deviation from established process. The staff of the Office of HIV Planning is available to assist grieving parties in completing the Grievance Form and providing technical assistance throughout the process. The Office of HIV Planning must receive grievances within 30 (thirty) days of the date of the alleged deviation.

What are the steps of the grievance process?

1. Filing the Grievance. The grieving party completes the Grievance Form and submits it to the Office of HIV Planning within 30 (thirty) days of the date of the alleged deviation.

2. Determination of Grievability. Within three business days of receipt of the grievance, the Office of HIV Planning staff and the staff of the Office of the Health Commissioner meets to determine whether or not the grievance meets all requirements for grievances against the Planning Council. This determination is made by answering three questions:

- a. Is the issue grievable to the Planning Council (is it a deviation from established process)?
- b. Is the grieving party eligible to bring grievance against the Planning Council?
- c. Is the Grievance Form complete and was it received within the required time?

If at least one of these questions is answered "no", the grievance is dismissed; the Office of HIV Planning will send a letter to the grieving party within two business days that states the reason(s) for the dismissal. If the answer to all three questions is "yes", the grievance proceeds; the Office of HIV Planning staff will contact the grieving party within two business days to discuss next steps.

3. Internal Review. Within ten (10) business days of the determination of grievability, the Planning Council's grievance panel shall convene a meeting with the grieving party(ies) to attempt to resolve issues informally, with the support of staff. The grievance panel consists of non-conflicted members of the Planning Council, appointed by the Council co-chairs, and shall include five (5) Planning Council members; at least one of the Council co-chairs shall serve on the panel, and at least three (3) of the members must be HIV-positive. The panel shall elect a chairperson who shall facilitate the internal review. If issues are resolved in this step, a written summary of the resolution will be sent to the grieving party within two (2) working days, via certified mail. Any information that needs to be provided to the Planning Council will be presented at the next Planning Council meeting. The names of grieving parties shall be withheld for reasons of confidentiality, unless they sign a release allowing for disclosure. If informal resolution is unsuccessful, the grievant(s) is referred for non-binding mediation. In this case, the Office of HIV Planning staff will make arrangement for step four.

4. Non-binding Mediation. This step is taken only after informal resolution is attempted through the internal review panel in step three (3). The staff will schedule a mediation session that shall include the grievance panel (which shall represent the Planning Council) and the grieving party(ies). The staff will secure the services of a mediator who shall attempt to mediate a resolution to the dispute. The staff will first attempt to obtain a mediator from ADR Options; failing that, staff will use its discretion to obtain a mediator. To the maximum extent possible, the mediation session will be scheduled for within seven (7) business days of the completion of the internal review in step three (3). The Office of HIV Planning shall be responsible for the mediator's fee and no other expenses.

The mediator shall lay out the logistics of the mediation session, which may include private individual meetings with each side. Generally, it is expected that the mediation session will take no more than three (3) hours.

If mediation is successful, the parties will draft a document delineating the agreement. Any information that needs to be provided to the Planning Council will be presented at the next Planning Council meeting. The names of grieving parties shall be withheld for reasons of confidentiality, unless they sign a release allowing for disclosure. All parties are strongly encouraged to refrain from discussing disputed issues outside of the mediation proceedings. If the dispute remains unresolved, the mediator shall make a non-binding recommendation. If the issues remain unresolved, the mediation session shall end.

At this point, the grieving party(ies) has five (5) business days to file an application for binding arbitration. If no application is filed, the matter is considered closed and no

further actions are available to the grieving party(ies) within these grievance procedures.

5. Binding Arbitration. This step is taken only after resolution is attempted through non-binding mediation in step four (4). The staff will schedule an arbitration session that shall include the grievance panel (which shall represent the Planning Council) and the grieving party(ies). The staff will secure the services of an arbitrator who shall arbitrate the dispute. The staff will first attempt to obtain an arbitrator from ADR Options; failing that, staff will use its discretion to obtain an arbitrator. To the maximum extent possible, the arbitration session will be scheduled for within fifteen (15) business days of the completion of the filing of an application for binding arbitration in step four (4).

The cost of arbitration will be shared by the grieving party(ies) and the Office of HIV Planning, with the exception that grievants who are consumers of Ryan White Part A services or parties legally representing individual consumers are exempt from these costs. All other grieving party(ies) shall pay \$50.00 (fifty dollars) per hour of arbitration; the Office of HIV Planning shall pay for the remainder. It is expected that arbitration will cost approximately \$300.00 (three hundred dollars) per hour.

The arbitrator shall lay out the logistics of the arbitration session, which may include private individual meetings with each side. Generally, it is expected that the arbitration session will take no more than three (3) hours.

The arbitration proceedings shall be confidential; the outcome of the arbitration shall be made public with an agreement to this effect signed by all parties. The decision of the arbitrator is binding on all parties so long as it does not contradict local, state, or federal law or ordinance or regulations imposed by the Council's funding source (HRSA—the Health Resources and Services Administration of the U.S. Department of Health and Human Services).

For issues that arise that are not covered by these procedures, what grievance opportunities exist with other entities?

Most other entities have some procedure for handling disputes. Individual agencies often have grievance procedures or a complaint process. The Recipient (AACO—the AIDS Activities Coordinating Office) is required to have a grievance procedure in place. And several offices within the city government have complaint procedures. As with the Planning Council's procedures, each of these entities may only regard certain types of complaints as grievable, and each may also require that complaints be filed within a certain amount of time. In all cases, a potential grieving party should be referred to the organization or entity with which it has a dispute.

What are some examples of grievances that are not covered by these procedures?

- Planning Council decisions that were made following proper processes (for example, if a person disagrees with a decision of the Council that followed established procedures, the issue is not open to grievance to the Council); there are many avenues for giving the Council input on decisions; grievance procedures are designed to address the Council's failure to follow established process only.
- Decisions made by the Recipient (for example, the Recipient's selection of agencies for funding); the Recipient utilizes a separate set of grievance procedures that are available through the Recipient office.
- Decisions made by funded agencies (for example, termination of services to a client); many agencies have grievance procedures in place to address agency-related issues; interested parties are referred to the individual agencies for more information.
- Decisions made by the Office of HIV Planning (for example, Office of HIV Planning budgetary decisions are not open to grievance to the Council).
- Decisions made by the City of Philadelphia Mayor's Office (for example, decisions that do not follow Planning Council recommendations for new members are not open to grievance to the Council).
- Decisions made by the Health Resources Services Administration (HRSA) or Congress (for example, changes to Council membership requirements are not open to grievance to the Council).