

# **BYLAWS OF THE HIV PLANNING COUNCIL**

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## **ARTICLE 1: NAME**

### **Section 1.1: General**

The name of the organization is the HIV Planning Council, and it shall be constituted as is required by the Ryan White HIV/AIDS Treatment Extension Act (“Ryan White Act”) and implementing regulations. As used in these bylaws, the term, “Planning Council” means the HIV Planning Council.

### **Section 1.2: Service Area**

Pursuant to the requirements of the Health Resources and Services Administration (HRSA), the Transitional Grant Area (TGA) to be served by the Planning Council shall consist of the following counties: Bastrop, Caldwell, Hays, Travis, and Williamson.

## **ARTICLE 2: PURPOSE AND DUTIES**

### **Section 2.1: Mission**

The mission of the HIV Planning Council is to develop and coordinate an effective and comprehensive community-wide response to HIV

### **Section 2.2: Purpose**

The Planning Council shall advise the Chief Elected Official (CEO) of the TGA on issues related to HIV and perform other duties assigned by the CEO. The CEO shall be the Mayor of Austin.

The Planning Council shall also perform the duties prescribed in the Ryan White Act and comply with the requirements imposed therein, and with other applicable laws or regulations. The Planning Council shall:

- (A) Develop a comprehensive plan for the development, organization, and delivery of HIV services, education, and prevention for individuals with HIV, those at risk of becoming infected, and those affected by the disease, which plan shall be compatible with existing state and local plans regarding the provision of services to individuals with HIV.
- (B) Determine the needs of persons living with HIV (PLWH) as delegated by the granting authorities in accordance with the comprehensive plan.
- (C) Allocate funds according to established priorities and needs.
- (D) Assess the efficiency of the administrative mechanism of the TGA in rapidly disbursing funds to the areas of greatest need within the eligible area and, as may be determined to be necessary, assess the effectiveness of the services offered in meeting the identified needs.

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- (E) Ensure broad community involvement in all phases of its operations, especially in establishing target community needs and priorities.

### **ARTICLE 3: MEMBERSHIP**

#### **Section 3.1: Composition of Voting Membership**

The membership of the Planning Council shall be appointed by the CEO. Members shall be selected in accordance with federal requirements, these bylaws, and with any applicable policies and procedures that are adopted by the Planning Council and approved by the CEO.

The Planning Council shall have not more than 25 voting members. In recommending members, the Planning Council shall comply with membership requirements of the Ryan White Act, and shall attempt to reflect the diversity of affected populations, demographically and geographically, as well as HIV-related institutional and community-based health and support service providers.

All efforts will be made to ensure that representation by persons living with HIV or AIDS does not fall below one-third of Planning Council membership. In compliance with applicable statutory and regulatory requirements, membership shall include the following groups:

- (A) Not less than one third (1/3) of members, excluding vacancies, shall be individuals who are receiving HIV-related services pursuant to a Ryan White Part A funded grant, but are not officers, employees, or consultants to any entity that receives funding from such a grant, and do not represent any such entity. In addition, these members should reflect the demographics of the population of individuals with HIV. For purposes of the preceding sentence, an individual shall be considered to be receiving such services if the individual is a parent of, or a caregiver for, a minor child who is receiving such services.
- (B) The Planning Council shall include representatives of:
  - 1. Health care providers, including federally qualified health centers;
  - 2. Community-based organizations serving affected populations and AIDS service organizations;
  - 3. Social service providers, including providers of housing and homeless services;
  - 4. Mental health providers and substance abuse providers;
  - 5. Local public health agencies;
  - 6. Hospital planning agencies or health care planning agencies;
  - 7. Affected communities, including people with HIV, members of a federally recognized Indian tribe as represented in the population, individuals co-infected with Hepatitis B or C and historically underserved groups and subpopulations;
  - 8. Non-elected community leaders;

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9. State government (including the State Medicaid agency and the agency administering the program under part B);
  10. Grantees under subpart II of part C of the Ryan White Act;
  11. Grantees under section 2671 of the Ryan White Act, or, if none are operating in the area, representatives of organizations with a history of serving children, youth, women, and families living with HIV and operating in the area;
  12. Grantees under other Federal HIV programs, including but not limited to providers of HIV prevention services, and
  13. Representatives of individuals who formerly were Federal, State, or local prisoners, were released from the custody of the penal system during the preceding 3 years, and had HIV as of the date of release.
- (C) A person who is registered or is required to register as a lobbyist under Chapter 4.8 of the Austin City Code, or who is employed by a person registered or required to register under that chapter, is not eligible to serve on the Planning Council until the expiration of three years after the date that the person ceases to be registered, required to be registered, or employed by a person registered or required to register.
- (D) Planning Council members will not participate, directly or in an advisory capacity, in the process of selecting entities to receive Ryan White grant funds.
- (E) Following approval by the CEO, a person becomes eligible to serve on the Planning Council when he or she has completed orientation, and has signed a written acknowledgment that he or she has received a copy of and agrees to comply with subsection D above, if applicable, and with the City's ethics and personal responsibility guidelines, and agreed to complete the City's training regarding open government laws.
- (F) Each member must complete a training course on open meetings and a course on ethics provided by City staff. This training shall be completed not later than the 90<sup>th</sup> day after the date of the member's appointment. Training on Robert's Rules of Order is also available and Planning Council officers may choose to participate.

### **Section 3.2: Composition of Non-Voting Membership**

There shall be one non-voting member representing the Office of the CEO.

### **Section 3.3: Member Responsibilities**

Each member of the HIV Planning Council shall be assigned to a specific committee and perform the following mandates as prescribed in the Ryan White Act. Members shall:

1. Establish operations that facilitate planning task functions.

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2. Assess the HIV service needs in the TGA.
3. Establish priorities for the allocation of funds.
4. Allocate resources.
5. Develop a comprehensive plan for the organization and delivery of HIV services that is compatible with existing state and local plans.
6. Assess the efficiency of the administrative mechanism in rapidly allocating funds to areas of greatest need.

Members shall refrain from acting in an official capacity except through the action of the Planning Council.

### **Section 3.4: Open Nominations Process**

- (A) The HIV Planning Council shall solicit nominations for consideration for appointment to the Planning Council through an open process. Nominees shall be selected based on criteria publicized by the Planning Council or the City. The criteria must include the conflict of interest standards that are in accordance with Section 3.1 and Article 9.
- (B) The City Manager shall assist the Planning Council in soliciting nominees for appointment to the Planning Council.
- (C) The Planning Council Executive Committee shall serve as the nominations committee to consider the nominees. The Executive Committee will review each application and submit a recommendation regarding the application to the Planning Council.
- (D) The Planning Council shall forward all applications for planning council membership to the CEO and shall recommend to the CEO.

### **Section 3.5: Terms of Voting Members**

- (A) Voting members of the HIV Planning Council shall serve two-year terms. A member's term shall commence upon date of approval by the CEO and shall expire on end of the month of the second anniversary of the member's appointment.
- (B) A member may not serve more than three consecutive terms unless the member is the only eligible representative of an entity that is the sole provider in a category designated in Section 3.1 of these bylaws.

### **Section 3.6: Vacancies**

- (A) Upon recommendation of the Executive Committee, applicants shall be approved for recommendation to the CEO by the Planning Council by majority vote. All vacancies occurring at times other than expiration of terms shall be filled as soon as possible. A

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person filling such vacancy shall be expected to serve one full term commencing the date of the approval by the CEO.

- (B) Nominations will be made and processed in accordance with the City Code and the policies and procedures of the Planning Council.
- (C) The Executive Committee shall monitor vacancies and terms of office and membership pursuant to established Planning Council policies and procedures to ensure representation and demographic reflectiveness of the service area as required by HRSA.

### **Section 3.7: Attendance**

- (A) A member who misses one third of all assigned regularly scheduled committee meetings in any rolling twelve month period, including the current month shall be ineligible to continue as a member.
- (B) Absences due to health issues, inclement weather, injury, military service, bereavement, or jury duty will be excused if the member notifies the staff liaison of the reason for the absence no later than two weeks following the absence.
- (C) The Chair shall notify the CEO in writing when a member is no longer eligible for membership due to a violation of these attendance requirements, and the CEO shall send written notice of termination to the member.
- (D) A member who seeks to resign from the Planning Council shall submit a written resignation to the chair, the staff liaison, or the city clerk's office.
- (E) The Executive Committee shall monitor attendance pursuant to established Planning Council policies and procedures.
- (F) The Planning Council may remove unexcused absences from a member's record by a supermajority vote of 75% of the membership.
- (G) A member shall be considered absent if not present within thirty (30) minutes of the meeting being called to order.

### **Section 3.8: Termination of Membership for Reasons Other than Attendance**

- (A) A member serves at the pleasure of the CEO. Any member who fails to perform his or her responsibilities shall be subject to removal by the CEO without further cause. In addition, conduct or behavior that the Planning Council deems to interfere with the business of the Planning Council and /or conduct that would have a negative impact on the community's confidence in the Planning Council are also grounds to recommend termination of membership.
- (B) Proposed terminations shall be reviewed by the Executive Committee, which shall submit a written recommendation to the Planning Council. A two-thirds vote of the Planning Council shall be required before a recommendation to terminate a member is forwarded to

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the CEO for approval of termination. The CEO may terminate the membership of a Planning Council member with or without the recommendation or approval of the Planning Council.

### **ARTICLE 4: OFFICERS**

#### **Section 4.1: General**

There shall be a Chair, a Vice Chair, and a Secretary in charge of the activities of the Planning Council. The Chair shall not be an employee of the City, and shall not have a conflict of interest as defined in Article 9, Section 9.1 of these bylaws.

#### **Section 4.2: Nomination of Officers**

All nominations for officers shall be made at least 2 months before the end of the existing term of office. The Planning Council shall not entertain any nomination for an office prior to review and presentation by the Executive Committee to ensure that candidates have met all eligibility requirements as defined in the following section.

#### **Section 4.3: Eligibility Requirements for Officers**

In order to be eligible for nomination for office, a candidate must be a current voting member and must be able to serve out the entire term of office as defined by the bylaws.

A member may not hold more than one office at a time.

#### **Section 4.4: Election of Officers**

Each officer shall be elected by a majority vote of Planning Council members in an open election process. Each voting member shall complete a written ballot. Ballots shall provide the option to vote for a candidate, abstain or vote “none”. The Secretary will tabulate the ballot totals and announce results.

#### **Section 4.5: Special Election of Officers**

- (A) Open nominations shall be made at the next scheduled meeting and the election shall be held at the following Planning Council meeting. The term of office shall begin immediately upon election. The newly elected officer shall serve out the balance of the term. The time served as a result of this special election shall not be counted toward the maximum length of office as defined in Section 4.7 of these bylaws.
- (B) In the event of a vacancy in the office of both Chair and Vice Chair, the Secretary shall become interim Chair until a special election is held to fill both vacancies.
- (C) If the vacated office of Chair is filled by either a Vice Chair or Secretary who has a conflict of interest as defined by Article 9, Section 9.1, the person may assume the duties of Chair

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on an interim basis only. A special election shall be held to elect a new Chair in accordance with Article 4, Section 4.5. The time served as a result of any interim appointment shall not be counted toward the maximum length of office as defined by Section 4.7.

- (D) If all offices become vacant, the Planning Council will elect a new slate of officers who will serve out the balance of the terms of office.

### **Section 4.6: Presiding Order of Officers**

The Chair shall preside at all meetings of the Planning Council and shall perform all other duties necessary or incidental to the position.

In the Chair's absence, the Vice Chair shall assume the duties of the Chair. In the absence of the Chair and the Vice Chair, the Secretary shall preside over meetings. If no officers are present and quorum is established, any member of the Planning Council can preside over the meeting following Robert's Rules of Order.

### **Section 4.7: Term of Office**

No elected officer shall hold the same office for more than two consecutive terms unless an additional term is approved by a two-thirds (2/3) vote of the Planning Council. A term of office is two years.

### **Section 4.8: Removal of Officers**

Any officer who fails to perform his or her duties shall be subject to removal from office. A motion remove a Planning Council officer from office can be made at any scheduled Planning Council meeting. Such a motion requires a second and a majority of members present voting in favor of the motion for it to pass. Removal of the officer shall require a two-thirds vote of the Planning Council members present.

## **ARTICLE 5: DUTIES OF OFFICERS**

### **Section 5.1: Chair Duties**

The Chair shall preside at Planning Council meetings, appoint all committee members and represent the Planning Council at official functions. The Chair shall appoint committee chairs and may appoint up to two additional Planning Council members to the Executive Committee in order to ensure consumer representation.

### **Section 5.2: Vice Chair Duties**

In the absence of the Chair, the Vice-Chair shall perform all duties of the Chair. The Vice-Chair shall also perform other duties assigned by the Chair.

**Section 5.3: Secretary Duties**

The Secretary shall maintain accurate notes of the business conducted in each business and executive meeting. The secretary shall also work with the staff to ensure accurate recordings of member votes, and shall perform other duties assigned by the Chair.

**ARTICLE 6: AGENDAS**

**Section 6.1: General**

- (A) To place an item on the agenda, two or more Planning Council members or an officer must submit a written or oral request to the staff liaison at least five days before the meeting. Agendas must be approved by the Chair.
- (B) The staff liaison shall prepare and distribute the agenda to the members not less than 72 hours before the meeting.
- (C) Posting of the agenda must comply with Texas Government Code Chapter 551 (Texas Open Meetings Act).

**ARTICLE 7: MEETINGS**

**Section 7.1: Frequency of Meetings**

- (A) The Planning Council shall meet not less than quarterly each year at such times and places as it may determine, or as may be specified in the notice of the meeting. Additional meetings may be called by the CEO, the Chair, or a majority of voting members.
- (B) The Chair shall adjourn a meeting not later than 10 p.m., unless the Planning Council votes to continue the meeting.

**Section 7.2: Texas Open Meetings Act**

- (A) The Planning Council shall at all times conduct its meetings, including committee meetings, in accordance with the requirements of the Texas Open Meetings Act (Chapter 551 of Texas Government Code). Meetings closed to the public, or executive sessions, may not be held without the advice and consent of the City Attorney.
- (B) The records, reports, transcripts, minutes, agenda or other documents which were made available to or prepared for or by the Planning Council shall be made available for public inspection and copying at a single location.



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### **Section 7.3: Quorum**

At any Planning Council meeting, including committee meetings, the presence of a majority of voting members, excluding vacancies, shall constitute a quorum.

If a quorum for a meeting does not convene within one-half hour of the posted time for the meeting, then the meeting may not be held.

### **Section 7.4: Conduct of Meetings**

The conduct of meetings of the Planning Council shall be governed by Robert's Rules of Order.

### **Section 7.5: Voting**

At any meeting of the Planning Council at which a quorum is present, each voting member shall be entitled to one vote upon any question before the Planning Council.

The Chair has the same voting privilege as any other member.

### **Section 7.6: Minutes**

The staff liaison shall prepare a detailed draft of the meeting minutes and submit them to the Secretary for review. The minutes of each meeting must include the vote of each member on each item before the Planning Council and indicate whether a member is absent or failed to vote on an item. The Planning Council shall certify the accuracy of all meeting minutes. Copies of the approved minutes shall be distributed to the CEO and the members of the Planning Council and shall be kept on file and available for review by interested persons.

### **Section 7.7: Priority of Planning Council Discussion**

At any meeting of the Planning Council, the Chair may give speaking priority to the members of the Planning Council on any matter pending before the meeting. Members of the public may speak on issues related to Planning Council business during the community input period as scheduled at each Planning Council meeting. The Chair may limit speakers to three minutes.

### **Section 7.8: Special Meetings**

The Chair may call a special meeting, and the Chair shall call a special meeting if requested by three or more members. The call shall state the purpose of the meeting. Such special meetings must comply with the Texas Open Meetings Act.

### **Section 7.9: Parliamentary Authority**

The rules contained in the current edition of Robert's Rules of Order shall govern the Planning Council in all cases to which they are applicable, except when inconsistent with these bylaws.

## **ARTICLE 8: COMMITTEES**

### **Section 8.1: General**

At any time, the Executive Committee or the Chair may create standing committees and ad hoc committees to advise and help meet the operational needs of the Planning Council. The Executive Committee or the Chair may also determine the duties of any such committee.

### **Section 8.2: Committee Membership**

- (A) The Chair shall appoint standing and/or ad hoc committees as needed to fulfill the tasks and activities required by HRSA.
- (B) The Chair shall appoint the membership and chair of each committee.
- (C) Only Planning Council members shall be voting members of a committee.
- (D) Each committee shall have no fewer than three Planning Council members.

### **Section 8.3: Executive Committee**

The Executive Committee is made up of the Chair, the Vice Chair, the Secretary, the Chairs of the standing committees and the chairs of existing ad hoc committees, in addition to the two members whom the Chair may appoint to ensure equitable representation. The Executive committee shall review the recommendations of standing and ad hoc committees for action by the full HIV Planning Council and be responsible for the following:

- (A) Ensuring that the work of standing committees progresses in an orderly and integrated fashion;
- (B) Coordinating the work of the Planning Council with the administrative mechanism;
- (C) Reviewing the performance of the administrative mechanism;
- (D) Planning for and overseeing activities of the Planning Council, including needs assessments, special studies, and training to address the skill development needs of Council members;
- (E) Setting the agenda for each Planning Council meeting;
- (F) Interviewing candidates for membership and making recommendations to the Planning Council;
- (G) Reviewing Planning Council membership attendance records;
- (H) Reviewing and revising as necessary, the bylaws of the Planning Council; changes must be approved by a majority vote of the Planning Council;

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- (I) Engaging and reaching out to members of the health care community and the community at large;
- (J) Ensuring activities and objectives support the Comprehensive Plan goals;
- (K) Defining Planning Council grievance procedures with regards to funding decisions, and;
- (L) Performing other duties as may be required or as assigned by the Chair of the Planning Council or by vote of the Planning Council.

### **ARTICLE 9: CONFLICT OF INTEREST**

#### **Section 9.1: General Statements; Conflict of Interest**

- (A) Conflict of Interest shall be defined according to the Ryan White Act.
- (B) A member with a conflict of interest shall have a current conflict of interest statement on file with the staff liaison.
- (C) Members are responsible for updating the conflict of interest statement as soon as there is any change in their status.
- (D) At each meeting, a member shall sign an attendance sheet and indicating that the member does not have a conflict of interest related to any item on the agenda, or indicate the number of the agenda item for which the member may have a conflict of interest.
- (E) A member with a conflict of interest shall recuse himself or herself from discussions or deliberations on the agenda item creating the conflict of interest.
- (F) A member with a conflict of interest may not vote on any issue relating to the agenda item creating the conflict of interest.
- (G) A member may not lobby the Planning Council or an individual member of the Planning Council on behalf of a potentially funded Ryan White provider in regard to priority setting and resource allocation for a person or entity.

#### **Section 9.2: Limit on Number of Planning Council Members with a Conflict of Interest**

At any given time, the number of Planning Council members deemed to have a conflict of interest, as is defined in Section 9.1 of these bylaws, in an agency or agencies shall not exceed one-third (1/3) of the total number of Planning Council members, excluding vacancies.

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### **Section 9.3: Involvement in Administering Grant Funds or Selecting Recipients**

Planning Council members may not be involved in the administration of grant funds, and may not designate or otherwise be involved in the selection of recipients of any of the amounts provided in the grant.

### **Section 9.4: Grievance Procedures**

Grievance Procedures for the Planning Council are contained in Addendum A, which is incorporated herein by reference. The Planning Council shall adhere to the grievance procedures in addressing all eligible grievances in accordance with Addendum A.

## **ARTICLE 10: AMENDMENT OF BYLAWS**

### **Section 10.1: Amendment of Bylaws**

The Planning Council shall have the power to recommend amendments to or the repeal of these bylaws at any meeting at which a quorum is present, providing that written notice of the proposed change is given at least ten days prior to such meeting. Any such change shall not be effective unless approved by the CEO. The CEO has the power to dissolve the Planning Council and repeal these bylaws in the event of such dissolution.

Approved by APH Legal:  
Date:

Approved by the Planning Council:  
Date:

Approved by the Chief Executive Officer:  
Date:

**ADDENDUM A**  
**HIV Planning Council**  
**Grievance Policy and Procedures**

**1. Grievance Procedure Requirement**

Section 2602 (b) of the Ryan White CARE Act, and as subsequently amended in the Ryan White Treatment Modernization Act of 2006, requires, in part, that Planning Councils develop procedures for addressing grievances with respect to funding, including procedures for submitting grievances that cannot be resolved to binding arbitration. Such procedures shall be described in the by-laws of the Planning Council and be consistent with the requirements of subsection (c).

**2. Policy**

It is the policy of the HIV Planning Council to establish a grievance process by which a grievant's complaint regarding priority setting or resource allocation process can be addressed and resolved expeditiously. A grievant shall not be discriminated against nor suffer retaliation as a result of filing a grievance in good faith or participating in the investigation of a grievance.

**3. Scope of coverage**

This procedure applies to the priority setting and resource allocation processes under the Ryan White Treatment Modernization Act Part A.

**4. Definitions**

Definitions of terms-used throughout this procedure are contained in Appendix I, which is attached hereto and is fully incorporated by reference.

**5. Eligible Grievant**

Entities directly affected by the outcome of a Planning Council decision related to priority setting or resource allocation process for Ryan White Part A grant funds are eligible to initiate a grievance. These entities are limited to:

- Persons Living with HIV (PLWH)
- HIV consumer groups, HIV coalitions or caucuses.

Entities not eligible to file a grievance include:

- Contracted Ryan White service providers
- Appointed Planning Council members
- Grantee

**6. Eligible Grievances**

Planning Council priority setting or resource allocation process decisions regarding Ryan White Part A and MAI grants will be made in accordance with established policies and procedures

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approved by the Planning Council for the setting of service category priorities and the allocation of resources. Eligible grievants, as defined above, may initiate a grievance regarding a deviation from the then-applicable Planning Council approved priority setting or resource allocation process as they apply to:

- Deviation from an established, written priority setting or resource allocation process.
- Deviation from an established, written process for any subsequent changes to priorities or allocations.

### **7. Dispute Prevention**

The Planning Council will make all reasonable efforts to prevent circumstances or situations regarding the priority setting or resource allocation process that could give rise to a grievance. When an entity is directly affected by the outcome of the priority setting or resource allocation process because the Planning Council did not adhere to its established, written procedure(s) for the priority setting or resource allocation process for the Ryan White Treatment Modernization Act Part A or MAI funds, the Planning Council will cooperate and explain its rationale for the decision in an effort to resolve the disagreement at an early, informal stage.

It is expected that entities which have a disagreement regarding the priority setting or resource allocation process will identify the situation to the Planning Council Chairperson at the earliest opportunity. The Planning Council Chairperson shall attempt to informally resolve disputes by providing information or statements to entities dissatisfied with the priority setting or resource allocation process. Grievants are expected to cooperate in good faith with the Planning Council in efforts to resolve the disagreement before formal grievance procedures are pursued.

Entities that have not been able to resolve a disagreement by the informal techniques of dispute prevention may, within the guidelines presented herein, initiate the formal, structured grievance process.

### **8. Grievance Process Overview**

Grievances regarding the priority setting or resource allocation process for Ryan White Treatment Modernization Act Part A grant funds will be addressed by the Planning Council in accordance with the following process:

**Priority Setting or Resource Allocation Process Review** - After all attempts at an informal dispute resolution have been made, the grievant will submit a written Request for Priority Setting or Resource Allocation Process Review to the Planning Council Chairperson. After investigation by the Chairperson with support from Planning Council staff, a report to include recommended actions that are expected to resolve the grievance, will be written; Upon review and approval by the Executive Committee of the Planning Council, it will be provided to the grievant. If the report satisfies the grievance, the grievant will so indicate by signing the report.

**Mediation** - Failing resolution through the Priority Setting or Resource Allocation Review

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process, the grievant may submit a Request for Mediation utilizing independent mediation service Dispute Resolution Center, 5407 N. IH35, Austin TX 78223 or other mediation service mutually acceptable to both parties. The role of the mediator will be to help the parties reach agreement on a resolution to the grievance and document in a report recommended actions that are expected to resolve the grievance. If the recommendation satisfies the grievance, the grievant will so indicate by signing the report.

**Binding Arbitration** - Failing resolution through the mediation process, the grievant may submit a Request for Binding Arbitration to mediation service. Upon deciding to do so, the grievant must simultaneously submit a copy of this request to the Planning Council Chairperson. An arbitrator will be selected by the mediation service. The arbitrator, following the rules of the American Arbitration Association (AAA) will review all relevant information concerning the grievance and render a resolution that will be binding on both parties. Both parties will acknowledge receipt and acceptance of the resolution by signing the arbitrator's resolution.

**Costs** – Costs associated with the arbitration process will be borne by the parties equally. However, each party shall be responsible for expenses related to its own counsel, experts, witnesses, and preparation and presentation of all documents. Cost and fees may include, but are not limited to, all reasonable pre-award expenses of the mediator's or arbitrator's fees, travel expenses, out-of-pocket expenses for copying and telephone.

Each of the above processes will be in accordance with the time frames indicated in this grievance procedure.

### **9. Funding of Contracts while a Grievance is in Process**

To ensure the provision of HIV related services while a grievance is in process, the Planning Council will implement its priority setting or resource allocation process according to its approved schedule. Agreed grievance resolutions will be prospective (i.e., they will not require reversal of priorities or categorical allocations made in support of the funding decision being grieved) unless such actions are an agreed component of the grievance resolution.

### **10. Time Extensions**

Time frames identified in this procedure may be altered only by mutual agreement, in writing, of both parties to the specific time frame.

### **11. Priority Setting or Resource Allocation Process Review**

If reasonable attempts to resolve priority setting or resource allocation process disagreements have not resulted in a solution acceptable to both parties, the eligible grievant may initiate the grievance process by submitting a written Request for Priority Setting or Resource Allocation Process Review Form. The Planning Council Chairperson must receive this request within 10 business days of the occurrence of an alleged deviation by the Planning Council from its published priority setting or resource allocation policies and procedures. If a request is not received within the 20 business days, the grievant will have waived all rights to grieve the priority setting or resource allocation decision. The Request for Priority Setting or Resource

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Allocation Process Review Form is attached hereto as Appendix II is fully incorporated herein by reference.

The Planning Council Chairperson is the individual designated to receive the Request for Priority Setting or Resource Allocation Process Review. The request, in writing, must be delivered by U.S. mail, return receipt requested, or by personal delivery, during Office of Planning Council normal business hours, 8:00 am to 5:00 pm.

The Planning Council Chairperson will provide a written summary of the options available to the grievant under the informal dispute prevention process and the formal grievance procedure. The Chair will also provide the grievant with a written outline and time frames describing the procedures.

Upon receipt of a Request for Priority Setting or Resource Allocation Process Review, the Planning Council Chairperson, or his/her agent, will within the days shown below, complete the following actions:

Two (2) business days: acknowledge, in writing, receipt of the Request for Priority Setting or Resource Allocation Process Review to the grievant at the address shown on the request.

Five (5) business days: determine if the grievant is an eligible grievant, and if he/she has identified an eligible grievance.

Fifteen (15) business days: complete a thorough review of the circumstances and information available regarding the grievance. This may include, but is not limited to reviewing all correspondence, records, or documentation related to the priority setting or resource allocation process that is the subject of the grievance, interviewing any or all persons who have, or might have, knowledge of the priority setting or resource allocation process, or were, or could be, affected by the priority setting or resource allocation process thereto.

Eighteen (18) business days: deliver to the Executive Committee of the Planning Council:

- A Priority Setting and Resource Allocation Process Review Report for review and approval summarizing the priorities or allocations decisions, whether the Planning Council Chairperson believes there is a basis for the grievance and, if appropriate, recommended action(s) that are expected to resolve the grievance;
- a statement that the Priority Setting or Resource Allocation Process Review will continue by mutual agreement of the grievant and the Planning Council Chairperson; or
- a Priority Setting or Resource Allocation Process Review Report summarizing the results achieved, the reason(s) for an impasse, a recommendation that further informal efforts will not likely produce a resolution, and a recommendation to discontinue the Priority Setting or Resource Allocation Review process.

Within six (6) business days of receipt, the Executive Committee of the Planning



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Council will review the Priority Setting and Resource Allocation Process Review Report. If approved, the Planning Council Chairperson will notify the grievant accordingly and provide two (2) copies of the report.

The grievant, upon receipt of the Priority Setting or Resource Allocation Review Report, will have five (5) business days to review it, decide if it satisfactorily addresses the grievance, and select one of the following actions:

If the report is satisfactory, the grievant will indicate his/her acceptance by signing one copy of the report and returning it to the Planning Council Chairperson.

If the report is not satisfactory, the grievant may contact the Planning Council Chairperson to express a desire to continue the Priority Setting or Resource Allocation Review process in an effort to resolve the grievance.

If the grievant is not satisfied with the report and believes that the grievance cannot be resolved by further discussion with the Planning Council Chairperson, the grievant may, within the five (5) business days of receipt of the report, submit a Request For Mediation to the designated mediation service in accordance with the procedure below.

If the PLANNING COUNCIL Chairperson does not receive a written reply from the grievant within the five (5) business days, the grievant will have waived all further rights to grieve the priority or allocation issue and all associated issues.

## **12. Mediation**

If reasonable attempts to resolve a grievance have not resulted in a solution acceptable to both parties, eligible grievants may request Mediation. Mediation is a non-binding process in which an objective, neutral, third party who has been selected by the dispute mediation service, assists the grievant and the Planning Council reach a grievance resolution that both parties can accept.

A grievant must submit a written Request for Mediation Form. The Request for Mediation Form is attached as Appendix III and is fully incorporated herein by reference. This Request must be received by the Planning Council designated organization within five (5) business days of receipt by the grievant of the Priority Setting and Resource Allocation Process Review Report. If a Request is not received within the five (5) business days, the grievant will have waived all further rights to grieve the funding decision and all associated issues related to the priority setting and resource allocation process.

The Planning Council designated organization to receive a Request for Mediation is the dispute mediation service. The request, in writing, must be delivered by U.S. mail, return receipt requested, or by personal delivery or facsimile, during normal business hours. The Planning Council must receive a copy of this request at the same time that it is delivered to the dispute mediation service.

## **ADDENDUM A**

Upon receipt of a Request for Mediation, the dispute mediation service will, within the days shown below, complete the following actions:

Two (2) business days: acknowledge, in writing, receipt of the Request for Mediation to the grievant at the address shown on the Request.

Five (5) business days: provide to the grievant the name of a disinterested person who is skilled in the process of mediation. This neutral person will not have been involved with the funding decision that is the subject of the grievance nor will they have any direct interest in the outcome of the grievance process.

Upon appointment as the mediator, dispute mediation service will, within the days shown below, complete the following actions:

Three (3) business days: contact the grievant and Planning Council Chairperson and agree on a day, time, and location of the initial mediation meeting. The mediation meeting will be scheduled within fifteen (15) business days to complete a thorough review of the circumstances and information available regarding the grievance.

During the mediation discussion, the mediator will facilitate communication between the parties to assist with a resolution of the grievance. If the grievance is resolved, both parties will indicate acceptance by signing a statement of resolution. The mediation process must be completed within five (5) days following the scheduled mediation meeting. Mediation findings, including all documentation and meeting transcripts are public record unless both parties specifically agree to hold the mediation process confidential. However, any mediation that results in changes to allocation of Ryan White funding is a matter of public record and cannot be designated confidential.

If the recommendation(s) fail to satisfy the grievant, he/she may contact the dispute mediation service to express a desire to continue the grievance process in an effort to resolve the grievance.

The grievant may, within the five (5) business days of the mediation, submit a Request for Binding Arbitration to the dispute mediation service (Appendix IV) in accordance with the procedure below.

If the dispute mediation service does not receive a written reply from the grievant within the five (5) business days, the grievant will have waived all further rights to grieve the priority setting or resource allocation decision and all associated contractor selections and awards.

### **13. Binding Arbitration**

If reasonable attempts to resolve a grievance have not resulted in a solution acceptable to both parties, eligible grievants may request Binding Arbitration. Binding Arbitration is a process in which the grievant and the Planning Council agree to be bound by the decision of an objective, neutral, third party who has been selected by the dispute mediation service to hear and decide a grievance.

## **ADDENDUM A**

A grievant must submit a written Request for Binding Arbitration Form. The Request for Binding Arbitration Form is attached as Appendix IV and is fully incorporated herein by reference. This Request must be received by dispute mediation service within five (5) business days of the grievant's Mediation. If a Request is not received within the five (5) business days, the grievant will have waived all further rights to grieve the priority setting or resource allocation decision process and all related issues.

The Request for Binding Arbitration must be submitted to the dispute mediation service. The Request must be in writing, delivered by U.S. mail, return receipt requested or by personal delivery or facsimile, during normal business hours.

Upon receipt of a Request for Binding Arbitration, dispute mediation service, using dispute mediation service Arbitration Rules, will, within the days shown below, complete the following actions:

Two (2) business days: acknowledge, in writing, receipt of the Request for Binding Arbitration to the grievant and Planning Council at the address shown on the Request.

Five (5) business days: provide to the grievant the name of the disinterested person who is skilled in the process of arbitration. This neutral person will not have been involved with the priority setting or resource allocation process that is the subject of the grievance nor will they have any direct interest in the outcome of the grievance process.

Upon appointment as the arbitrator, the arbitrator will, within the days shown below, complete the following actions:

Three (3) business days: contact the grievant and Planning Council Chairperson and agree on a day, time, and location of the arbitration meeting. The initial arbitration meeting will be scheduled within fifteen (15) business days to review all correspondence, records, or documentation related to the priority setting or resource allocation process that is the subject of the grievance, any or all person(s) who have, or might have, knowledge of the priority setting or resource allocation process, or were, or could be, affected by the priority or allocations decision or changes thereto.

Ten (10) business days: deliver to the grievant, the Planning Council Chairperson, and dispute mediation service an Arbitration Decision summarizing the priority setting or resource allocation decision and an arbitration decision that will resolve the grievance. Within three (3) days of receipt of the Arbitrator's Decision, all parties will sign one copy.

In the event the binding arbitration decision necessitates a change in allocation of Ryan White funds, the reallocation shall be applied prospectively.

## DEFINITIONS

**AAA.** American Arbitration Association

**Arbitration.** The submission of a dispute to an impartial or independent individual or panel for a binding determination. Arbitration is usually carried out in conformity with a set of rules. The decision of an arbitrator generally has the force of law, although it generally does not set a precedent.

**Arbitrator.** An individual selected to decide a grievance. Arbitrators will be selected by the dispute mediation service selected and mutually agreeable to both parties.

**Binding.** A process in which parties agree to be bound by the decision of an arbitrator.

**Dispute Prevention.** Techniques or approaches that are used by an organization to resolve disagreements at as early and informal a stage as possible to avoid or minimize the number of disputes that reach the formal grievance process.

**Dispute Mediation Service.** A third party non-profit organization which provides dispute mediation services following AAA approved guidelines. The Dispute Mediation Service provider shall be mutually acceptable to both parties.

**Entity.** HIV consumer groups; or Persons Living With HIV, coalitions or caucuses.

**Grievance.** A complaint or dispute that has reached the stage where the affected party seeks a structured approach to its resolution.

**Grievant.** An entity seeking a structured resolution of a grievance.

**Mediation.** A voluntary process in which a neutral third party assists parties to a grievance in reaching an acceptable resolution to the issue(s) being grieved. Mediation may involve meetings held by the mediator with the parties together and separately.

**Mediator.** A trained neutral third party selected by the designated dispute mediation service to help the parties reach an agreement on a determined set of issues.

**Neutral.** A term used to describe an independent third party, including a mediator or arbitrator, selected to resolve a grievance.

**Non-binding.** Techniques in which the parties to a grievance attempt to reach an agreement. The results must be agreed to by both parties; results are not imposed by the third party as they are in binding arbitration.

**Party.** Refers to one of the participants in the grievance process. This includes the grievant who brings the grievance action, and the respondent against which the grievance is brought.

**Planning Council.** The HIV Planning Council is a planning body that conducts health and social service planning for HIV grant funding in the Austin Area Transitional Grant Area (TGA).

**Third Party.** A term used to describe an independent or impartial person, including a mediator or arbitrator, selected to resolve a grievance or assist the parties in resolving a grievance.

**REQUEST FOR PRIORITY SETTING OR RESOURCE ALLOCATIONS  
DECISION REVIEW**

(Provide the following information in letter format)

Date:

PLANNING COUNCIL Chairperson  
HIV Planning Council  
7201 Levander Loop  
Building H  
Austin, Texas 78702

Re: Request for Priority Setting or Resource Allocation Decision Review

The undersigned party(ies) submit(s) the following grievance for resolution under the Priority Setting and Resource Allocation Decision Review phase of the HIV Planning Council Part A/MAI Grant Programs Grievance Procedure.

Statement of Grievance: (include date the priority setting or resource allocation decision was made, by what entity, how the Planning Council deviated from its written, established process, and the reason(s) for filing the grievance).

Statement of Eligible Grievant: (state how you were directly affected by the priority setting or resource allocation decision)

Statement of Remedy Sought: (indicate what you would want the Planning Council to do in order to correct the grievance)

Statement of Previous Action Taken: (indicate results of previous attempts at resolution, attach written documentation as appropriate)

I affirm that the above statements are true and accurate to the best of my knowledge.

Name of grievant:

If grievant is an organization, name of authorized individual:

Address:

City/state/zip code:

Telephone number:

Fax number:

---

Signature

**REQUEST FOR MEDIATION**

(Provide the following information in letter format)

Date:

Organization name (dispute mediation services  
address

Ref: Request for Mediation

The undersigned party(ies) submit(s) the following grievance for resolution under the Mediation phase of the HIV Planning Council Part A Grievance Procedure.

Date of Receipt of the Priority Setting or Resource Allocation Decision Review Report: (identify date)

Results of the Informal Priority Setting or Resource Allocation Review Process: (state why the results of the Priority Setting or Resource Allocation Review process were not sufficient to resolve the grievance, attach written documentation as appropriate)

I affirm that the above statements are true and accurate to the best of my knowledge.

Name of grievant:

If grievant is an organization, name of authorized individual:

Address:

City/state/zip code:

Telephone number:

Fax number:

---

Signature

In addition, please fax or mail a copy of the above letter to the following address:

Planning Council Chairperson  
7201 Levander Loop  
Building H  
Austin, TX 78702

**REQUEST FOR ARBITRATION**

(Provide the following information in letter format)

Date:

Organization name (dispute mediation services  
address

Ref: Request for Arbitration

The undersigned party(ies) submit(s) the following grievance for resolution under the arbitration phase of the HIV Planning Council Part A/MAI Grievance Procedure.

Date of Receipt of the Mediation Review Process Report: (identify date)

Results of the Mediation Review Process: (state why the results of the Mediation Review Process were not sufficient to resolve the grievance, attach written documentation as appropriate)

I affirm that the above statements are true and accurate to the best of my knowledge.

Name of grievant:

If grievant is an organization, name of authorized individual:

Address:

City/state/zip code:

Telephone number:

Fax number:

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Signature

In addition, please fax or mail a copy of the above letter to the following address:

PLANNING COUNCIL Chairperson  
7201 Levander Loop  
Building H  
Austin, TX 78702