

Grievances and Appeals

It shall be the policy of the Planning Council to attempt to resolve grievances regarding Council decisions through informal dispute mechanisms, including appropriate use of Council subcommittees and facilitated mediation. To assist in the understanding of the basis for Council and grantee actions, written documentation regarding the Council's and the grantee's procedures, particularly those related to the prioritization of services, allocation of funds, and vendor selection, shall be provided as part of the Council's informal dispute mechanism.

Persons or agencies must submit an appeal request in writing to the Co-Chairs. Decisions subject to grievance shall include the needs assessment process; comprehensive planning process; priority setting process; and, process for the allocation of funds to service_categories. This appeal must meet the following criteria:

- A. The appeal request must be received in writing within ten (10) business days of a Planning Council decision;
- B. The appeal request must specify the reasons for an appeal. Available supporting documentation regarding an alleged violation of the Council's process must be included;

The Co-Chairs shall review the request for appeal of a Council decision and shall determine within fifteen (15) days if a basis for appeal exists. If a basis for appeal is found to exist the matter shall be referred to the appropriate committee as designated in the Policies and Procedures Manual for informal dispute resolution or fact-finding, hearing and decision-making. If no basis for appeal is determined, the appealing party may request reconsideration of the Co-Chairs decision by the full Planning Council. The decision of the Planning Council shall be final, except for grievances related to funding.

After a finding that the basis for appeal exists, the Steering Committee shall within thirty (30) days meet to conduct informal dispute resolution, including facilitated mediation, fact-finding, hearing and decision-making. Representatives of the appealing party shall be consulted, and shall have the opportunity to address the Steering Committee, in addition to other parties as deemed appropriate by the Steering Committee. The Steering Committee shall issue a written recommendation to the full Council regarding the appeal within sixty (60) days after referral to the committee.

Appeal determinations shall be forwarded to the Planning Council for approval, modification, or referral to committee. The Council shall act upon the committee's recommendation within thirty (30) days of receipt of the written recommendation. The decision of the planning Council shall be final and not subject to further appeal, except for grievances related to funding which shall be governed by the following provisions.

Following the exhaustion of the procedures described above, including informal dispute resolution, consideration and action by the Steering Committee, and consideration and action by the Planning Council, grievances may be submitted for arbitration as described herein. Requests for submittal to arbitration must be received by the Co-Chairs in writing within ten (10) days of final Council action. The Co-Chairs shall request the Directors of Public Health in San Francisco, Marin, and San Mateo to each appoint a neutral individual, knowledgeable of health services for person with HIV and familiar with the procedures and requirements of the Ryan White legislation, to serve on an arbitration panel to hear the

grievance. A neutral party shall be defined as an individual who is not a member of the Council, employee of the grantee, or employee or board member of an agency affected by the action subject to arbitration. The arbitration panel shall convene within thirty (30) days of the written request for arbitration.

The arbitration panel shall have the authority to determine whether (1) the Planning Council has acted outside the scope of its jurisdiction, such as taking actions not authorized under the Ryan White legislation, Council By-laws, or Council policies and procedures; (2) there was a fair consideration of the grievance through the Council's Grievance and Appeals Process; and (3) there was abuse of discretion. An abuse of discretion is established if (a) the grieving party demonstrates that the Council or grantee has proceeded in a manner that violates the Ryan White legislation, the Council's By-laws, or established Council policies and procedures; (b) the Council failed to articulate the reason for its decision; or (c) there were no facts presented to the Council which would reasonably support its decision.

The arbitration panel shall select a Chair, who shall schedule a hearing as soon as practicable. The Chair shall receive all communications from the grieving party and the Council and shall, after communicating with the other panel members and determining that at least two panel members agree as to any decision, make decisions in response to issues raised by the parties in connection with the arbitration. The arbitration panel shall submit its decision in writing to the Council within sixty (60) days of the written request for arbitration. The decision of the arbitration panel shall be final and binding.

If the arbitration panel determines that the Council acted outside the scope of its jurisdiction, failed to give fair consideration of the grievance, or committed an abuse of discretion, the panel shall remand the matter back to the Council with the directive that it vacate its prior decision and take action consistent with the panel's decision. The decision of the arbitration panel shall not limit or control in any way the discretion legally vested in the Council or Grantee.