

ORANGE COUNTY COUNCIL

Policies and Procedures

Subject: Grievance Procedure/Process

Number: IX

Date Effective: May 24, 1995

Revised: 10/30/96, 6/9/99, 12/10/14

Reviewed: 2/15/17, 5/8/19, 8/11/21

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1. **PURPOSE:** The purpose of this policy and procedure is to establish the appropriate administrative process by which providers, persons living with HIV (PLWH), affected entities, and individuals may appeal and/or aggrieve decisions of the HIV Planning Council (Council) relative to Ryan White Act Part A decisions regarding the needs assessment, comprehensive planning (integrated HIV prevention and care planning), priority setting, and funding allocation process. These procedures are intended to enhance the timely fact-finding, hearing, and decision-making process in the event of a grievance or appeal. These procedures do not cover grievances resulting from the process by which the Grant Recipient procures services, client grievances filed with individual service providers or related appeals for HIV Care and Prevention services funded by the Ryan White Act
 2. **DEFINITION/STANDING:**
 - 2.1. A grievance is the statement of a formal complaint with regards to decisions made by the Council regarding the needs assessment process, the priority setting process, the comprehensive planning process, and the allocation funding process.
 - 2.2. After having exhausted all existing, non-formal methods of resolving the dispute, the following parties may file a grievance under this procedure within 90 working days of the incident: members of the Council, service providers affected by the processes of the Council, consumer/client groups or PLWH, coalitions affected by processes of the Council, and other affected individuals as determined to have standing by the Council.
 3. **FACT FINDING AND/OR INFORMAL HEARING:**
 - 3.1. All grievance requests will be filed in writing with the Executive Committee of the Council using the Grievance Dispute Resolution Form (See Attachment A). In order to ensure that service provision is not disrupted; all appeals must be filed within fifteen (15) working days from the date that the original Planning Council decisions were rendered. All grievances and supporting documentation must be in writing and filed with the HIV Planning and Coordination (HIVPAC) unit no later than the close of business on the 15th day from the date of the decision in question.
 - 3.2. The Executive Committee will subject the grievance to a fact-finding review. The Executive Committee will review the grievance and determine within five (5) working days if a basis for appeal exists.
 - 3.3. If a basis for appeal is found, the Executive Committee will set up a fact-finding/informal decision-making hearing. The grievant shall be notified in writing by the Chair of the Executive Committee of the date of the fact-finding, and/or decision-making hearing.
 - 3.4. This hearing will be set within three (3) working days from the date the Executive Committee meets and determines a hearing must be held.
 - 3.5. The Executive Committee will conduct a review of the pertinent facts. The grievant will be consulted, in addition to other persons or parties deemed appropriate by the Executive Committee. The Executive Committee will make written recommendations regarding the appeal within ten (10) working days from the conclusion date of the hearing.

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4. **STAKEHOLDER HEARING:**

- 4.1. If the grievant disputes the recommendations of the Executive Committee, they may request that a stakeholder hearing into the issue be scheduled.
- 4.2. Requests for stakeholder hearings must be in writing and must be requested within three (3) working days of the decisions rendered by the Executive Committee following the informal, fact-finding hearing process.
- 4.3. The written request for a stakeholder hearing will be filed with the HIVPAC unit.
- 4.4. Within five (5) working days from the receipt of the request for a stakeholder hearing, the hearing will be scheduled at a time convenient for the parties, which provides all parties sufficient preparation time, but which is no later than fifteen (15) working days from the original hearing request. All written material to be reviewed at this hearing must be submitted at least three (3) working days before the actual hearing date.
- 4.5. Within three (3) working days from the receipt of hearing material, the materials will be provided to all pertinent parties for review.
- 4.6. On the hearing date the Stakeholders Panel will meet to hear the oral evidence. At the conclusion of testimony, the Panel will retire to render its decision on the testimony as presented. A memo, enumerating the decision(s) of the Panel will be provided to all the parties involved within forty-eight (48) working hours after the conclusion of the hearing.
- 4.7. Appeals to the decisions made by the Stakeholders Panel must be filed within five (5) working days from the date of the panel's decision (for the purposes of this time frame, the time will start accruing from the date the written decision is disseminated to all the parties involved). Appeals must be written and filed with the office of the Chief of Operations Public Health Services for the County of Orange (County).

5. **COMPOSITION OF THE STAKEHOLDERS PANEL:** In order to facilitate a fair and impartial mediation process, the panel will be made up of the following members: the Chair of the Council; the Vice Chair(s) of the Council; the Chair of the HIV Client Advocacy Committee or designee if they are a party to the appeal; the Health Care Agency's Division Manager of Health Promotion and Community Planning ; and a staff of the provider of legal services to PLWH within the County, as available.

6. **ARBITRATION HEARING:**

- 6.1. Upon determination that the appeal filed is in compliance with Section 4.7 of this policy and procedure, the County's Deputy Agency Director of Public Health Services or designee, acting as the Chair of the Arbitration Panel, will schedule a hearing as soon as it is practicable.
- 6.2. Panel members will review the information provided by the parties involved, and render a written decision within sixty (60) working days of the written request for arbitration.

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7. AUTHORITY OF THE ARBITRATION PANEL:

7.1. Decisions of the Arbitration Panel shall be final and binding.

7.2. The Arbitration Panel shall have the authority to determine only if 1) the Council has acted outside the scope of its jurisdiction, such as taking actions not authorized under the Ryan White Act, Council Bylaws, 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 an abuse of discretion.¹

7.3. If the Arbitration Panel determines that the Council has acted outside the scope of its jurisdiction, failed to give fair consideration to 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.

7.4. The decisions of the Arbitration Panel shall not limit nor control in any way the discretion legally vested in the Council.

8. **COMPOSITION OF THE ARBITRATION PANEL:** In order to facilitate a fair and impartial arbitration process, the Arbitration Panel shall be made up of the following members: the County's Health Officer, the Agency Director of the Health Care Agency and/or their designee, and another Director of a County agency familiar with the arbitration process, but not a party to any of the actions brought before the panel.

¹Abuse of Discretion is established when the grieving party demonstrates that the Council has proceeded in a manner that violates the Ryan White Act, the Council's bylaws, or established policies and procedures; the Council failed to articulate the reasons for its decisions; or there were no facts presented to the Council which would reasonably support its decision.

Orange County Planning Council Grievance Dispute Resolution Form

In accordance, with the grievance policies and procedures Section 3.1. All grievance requests will be filed in writing to the Executive Committee of the HIV Planning Council (Council) using this Grievance Dispute Resolution Form.

General Information		Date of Incident:			
Last Name:		First Name:		Middle Initial:	
Address:					
Email:					
City:		Zip Code:		Phone:	
Please check all that apply:					
Problem with the Council not following Rules of Respectful Engagement	Problem with the needs assessment	Problem with the priority setting process	Problem with the funding allocation process	Problem with the comprehensive planning process	Other:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of a formal complaint: _____					
Witness(es) to Incident: _____					
Briefly describe what you have done to resolve this issue: _____					
State your expected outcome from this grievance: _____					
Print Name:				Date:	
Signature:				Date:	

Submit completed form to:
 HIV Planning and Coordination
 1725B W. 17th Street
 Santa Ana, CA 92706
 Phone: (714) 834- 8399 Fax: (714) 834- 8270

HIV Planning and Coordination Unit Use Only		
Executive Committee reviewed Date:	Resolved <input type="checkbox"/> Yes <input type="checkbox"/> No	Hearing Date:
Hearing outcome determined:	Resolved <input type="checkbox"/> Yes <input type="checkbox"/> No	
Written response submitted to complainant Date:		
Comments:		