



Maricopa County
Ryan White Part A Program
Policy and Procedures

GRANTEE GRIEVANCE

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Section 1 – Legislative Requirements

Section 2602 (c)(2) of the Ryan White Treatment Modernization Act of 2006 requires Part A Grantees to develop grievance procedures related to funding decisions, including procedures for submitting grievances that cannot be resolved by binding arbitration. The legislation requires that these procedures be consistent with model grievance procedures developed by HRSA, which address grievances with respect to Ryan White funding. HRSA expects Grantee and Planning Council grievance procedures to be coordinated.

Section 2 – Definitions

Definitions used in these procedures are provided in Attachment A.

Section 3 – Purpose

The Grantee's grievance policy is designed to provide a process that:

- A. Enables eligible individuals or entities to exercise their rights to file an informal complaint or a formal grievance with regard to specific Grantee policies and procedures and their implementation,
- B. Prevents avoidable grievances and resolves complaints at the informal level whenever possible,
- C. Ensures that each complaint or grievance is addressed and resolved fairly and quickly, and
- D. Meets HRSA requirements and represents sound practice for an EMA.

Section 4 – Who May File a Grievance

Entities and individuals within the Phoenix Eligible Metropolitan Area (EMA) who are directly affected by the outcome of a decision related to funding ("affected parties") are eligible to file a grievance. This may include:

- A. Providers of HIV-related services that are eligible to receive Ryan White Part A funds, including Minority AIDS Initiative funds, and
- B. The Planning Council.

Section 5 – Eligible Grievances

- A. Directly affected parties may file a grievance with regard to either of the following:
 - 1. Deviations from the Grantee's established contracting and awards process and
 - 2. Deviations from the established process for any subsequent changes to the selection of contractors or awards.
- B. The Planning Council may grieve:
 - 1. Contracts and awards not consistent with priorities (including any language regarding directives on how best to meet those priorities) and resource allocations made by the Planning Council, and



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2. Contract and award changes not consistent with priorities and resource allocations made by the Council.

Section 6 – Prospective Implementation of Settlements

Any settlement reached through arbitration shall involve prospective (future) change. It shall not require reversal of procurement decisions already made. For example, if a arbitration agreement requires changes in the Grantee's procurement process, the Grantee must use the new process in future procurement activities, but is not required to re-do the prior procurement process.

Section 7 – Dispute Prevention and Early Resolution

- A. The Grantee recognizes that the best way to deal with grievances is to prevent them. The Grantee shall make all reasonable efforts to prevent circumstances or situations within the procurement processes that could give rise to a grievance.
- B. Dispute prevention efforts shall include at least the following:
 1. Availability of a written description of the Grantee's procurement policies and procedures.
 2. Training for new Grantee staff and for all independent review panel members each year, to ensure that they understand and are prepared to follow established review policies, processes, and procedures, including related policies and procedures such as conflict of interest.
 3. Discussion of the procurement process and related policies each year at a bidder's conference, if one is held.
 4. Specific opportunities for interested parties, including bidders and review panel members, to provide feedback on the procurement process and its implementation.
- C. When potential grievances arise, first steps shall involve informal conflict resolution efforts before the concern becomes a grievance. This informal process includes the following:
 1. The Part A Program Manager or identified designee [described throughout as the Grantee representative] serve as the Grantee's designated point of contact for an affected party with concerns about procurement or related processes that might become a grievance. An affected party that appears to have standing to file a grievance and has concerns regarding adherence to established processes that are covered by these grievance procedures shall be encouraged to express these concerns to the Grantee representative at the earliest opportunity. The contact must be made within ten (10) business days after the disputed situation occurred or after the decision was announced.
 2. In any situation where the assigned Grantee representative has a real or perceived conflict of interest or is unable to play a neutral role, the next highest ranking Grantee representative shall handle that situation.
 3. The Grantee representative shall log all such contacts and discussions, recording the date, affected party name and contact information, concerns expressed, and the date of the event that led to the concerns.



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4. The Grantee representative shall meet with the affected party to review the expressed concerns. The discussion will occur within five (5) business days after the concerns are brought to the attention of the Grantee representative. The Grantee representative shall be prepared to explain the procurement process used and clarify how it works, and to provide other information as appropriate. The Grantee representative may involve other Grantee staff as needed. Where possible, the affected party's concerns will be resolved through this discussion. The Grantee representative will summarize the discussion in writing and provide the report to the Director of Workforce Management and Development or designee.
5. If these efforts do not resolve the concerns, the Grantee representative will ensure that the affected party receives written information about the grievance process, timeframes, and how to file a grievance.

Section 8 – Overview of Formal Grievance Process

Formal grievances will be handled through the following steps, each of which may lead to a resolution. If that step is not successful, the grievant may move to the next step.

The steps include:

- A. An internal review of the grievance and grievant to determine whether the grievance and grievant have standing under these procedures,
- B. A meeting between the grievant and the Grantee representative to seek a resolution to a grievance, and
- C. Binding arbitration.

Section 9 – Filing a Grievance

- A. The affected party must submit a written Grievance Intake Form within ten (10) business days after the attempt at informal dispute resolution, or, if no informal discussion is attempted, within ten (10) business days after the event on which the grievance is based or after the decision was announced. (The form is provided in Attachment 2.) If no Grievance Intake Form is submitted within this period, the affected party will lose the right to file a grievance.
- B. The completed form may be submitted to the Grantee office by U.S. mail with return receipt requested, electronic mail (with electronic signature), fax, or personal delivery during normal business hours.
- C. Grantee representative will log in the grievance, and within two (2) business days after receipt will inform the grievant that the grievance has been received and provide a written summary of the grievance process, including steps, forms, and timelines.
- D. Grantee representative will provide copies of the grievance to the Director or designee within two (2) business days after receipt.



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Section 10 – Internal Review and Meeting

- A. The Director or designee shall review the grievance within three (3) business days after receiving it, to determine whether the affected party is an eligible grievant and whether the situation described represents an eligible grievance.
- B. The grievant will be informed of the decision within two (2) business days after the decision about standing is made.
 - 1. If the grievance is rejected, the letter must explain the reasons for the rejection and inform the grievant that s/he has ten (10) days after the date of the letter of rejection to contact the Grantee office to appeal the decision.
 - 2. If the grievant and grievance are determined to have standing, or the grievant files a notice of appeal, the Director or designee will contact the grievant within five (5) business days after receipt, to arrange a meeting to review the merits of the grievance and attempt to resolve the grievance.
- C. The Director or designee shall conduct a review of the circumstances and information available regarding the grievance. This will generally require reviewing the facts of the situation with appropriate Grantee staff to obtain their perspectives and their description of whether the County's procurement policies and procedures were followed, and if not, what happened, in preparation for a meeting with the grievant.
- D. The Director or designee shall then schedule a meeting at which the grievant shall have the opportunity to provide additional information and answer questions posed by the Director or designee. The Director or designee may arrange for other Grantee staff to participate in the meeting. Based on the meeting, the Director or designee shall make his/her judgment regarding the grievance and how it should be resolved. The decision shall be made and sent to the grievant by certified mail, within three (3) business days after the date of the meeting.
- E. If the grievant finds the report and proposed resolution satisfactory, the grievant will indicate acceptance by signing one copy of the report and returning it to the staff.
- F. If the grievant's complaint is denied or if the grievant is not satisfied with the resolution in the report, the grievant may request formal binding arbitration, with the understanding that the decision of the arbiter will be final and binding on both parties.

Section 11 – Binding Arbitration

- A. The grievant may submit a Request for Binding Arbitration to the Grantee office (See Attachment 4 for a copy of the form). The completed form must be received by Grantee representative within ten (10) business days from the receipt of the written report from the Director or designee to request binding arbitration. It may be submitted to the office in writing via U.S. mail, return receipt requested, electronic mail (with electronic signature), fax, or personal delivery during normal business hours.
- B. If the Grantee representative does not receive a written form requesting arbitration from the grievant within the specified period, the grievant will waive all further rights to grieve the situation.



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- C. Grantee representative shall log in the request for arbitration, and, within two (2) business days after receipt, shall inform the grievant and the Director or designee that the request has been received. The Director or designee may represent the Grantee in the arbitration process.
- D. Grantee representative shall request a neutral arbitrator through the American Arbitration Association (AAA), or through a service identified appropriate by County Counsel and the arbitration will be in accordance with the standards of the AAA. The AAA (or other arbitration service) will provide the name of a disinterested person who is skilled in the process of arbitration to the Grantee designee and grievant within five (5) business days after the Request for Binding Arbitration Form is received. This neutral person shall have had no involvement in the process that is the subject of the grievance nor will s/he have any direct interest in the outcome of the grievance process. The grievant and the Grantee representative shall each approve the arbitrator or request a different arbitrator if the grievant or Grantee representative grievance is acquainted with the arbitrator or questions his/her selection.
- E. Once the arbitrator has been accepted by both parties, s/he shall within three (3) business days contact the grievant and Grantee representative and agree on the date, time, and location for an arbitration meeting. A meeting will be scheduled within fifteen (15) business days.
- F. The arbitrator will review correspondence, records, or documentation related to the process that is the subject of the grievance, including materials from the mediator. The arbitrator may ask the two parties to provide additional information related to the grievance, either before or after the meeting.
- G. Within seven (7) business days after the arbitration meeting, the arbitrator will deliver to the grievant and the Grantee an arbitration summary and decision, signed by the arbitrator. This decision will resolve the grievance.
- H. Within three (3) days of receipt of the arbitrator's decision, all parties shall be required to sign one copy of the decision, which shall be binding on both parties.

Section 12 – Summary of Time Frames

- A. An affected party shall have ten (10) business days after becoming aware of a grievable Grantee procurement event or action in which to file a formal grievance related to that event or action. If the affected party chooses to first attempt informal resolution, this should be initiated within ten (10) business days after the event or action occurs.
- B. The grievant will have ten (10) business days to decide whether to move from each step of the grievance process to the next – from informal to formal grievance, from formal grievance to binding arbitration.
- C. The time frames for the grievance resolution process are summarized below.
 - 1. **Grievance prevention and early intervention** – five (5) business days after a concern is raised with the Grantee representative



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2. **Internal non-binding procedures** – seven (7) business days after the grievance is filed to determine whether the grievance has standing, and an additional eighteen (18) days for the Director or designee to hold a meeting and attempt to obtain a resolution of the grievance, and
 3. **Binding arbitration** – twenty-eight (28) days after the arbitration request form is received by the Grantee to obtain a binding resolution from the arbitrator.
- D. Time frames identified in this procedure may be altered only through mutual agreement of both parties, provided in writing.

Section 14 – Costs

The costs for grievances shall be as follows:

- A. There shall be no cost for an informal discussion or for the internal review process.
- B. The fees and costs of the Arbitrator will be split between the Grievant and the Administrative Agent's Office in accordance with the fees and cost schedules set forth by the rules of one arbitrations format (i.e., Commercial Arbitration Rules and Mediation Procedures, year 2008) or the American Arbitration Association.
- C. No decision issued by an arbiter shall include an assessment of fees and costs against either the grieving party or the respondent.
- D. Both parties will be responsible for costs related to their own participation in the grievance resolution process, including costs related to any witnesses or documents they choose to bring forward.

Section 15 – Grantee Action Following Resolution of Grievances

Following any agreement reached regarding a grievance the Grantee, Director or designee, and Grantee representative will meet to discuss the nature of the grievance and the settlement. This meeting will include discussion to clarify whether the agreement was made through internal dispute resolution efforts or binding arbitration. Focus will be on ensuring an understanding of the terms of the agreement and all required or desirable actions to be taken by the Grantee to fully meet these terms and to avoid similar situations in the future. The Grantee will take action to ensure clear responsibility for ensuring that all provisions of the agreement are met within a time period specified in the agreement or, if no time period is included in the agreement, within a time period determined at the meeting.

Section 16 – Confidentiality and Protections

A. Confidentiality:

1. Arbitrators shall not divulge confidential information disclosed to them by the parties during arbitration, or share related records, reports, or other documents received.
2. The Grantee and the grievant will be asked to maintain similar confidentiality.
3. Agreements on confidentiality may be made a part of the written settlement signed by the Grantee representative and the grievant.

- B. Protections:** 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.



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Section 17 – Involvement of County Counsel and Grantee

- A. **County Counsel:** The Grantee representative shall keep County Counsel, as a representative of the CEO, informed about all active grievances. At his/her discretion, the County Counsel may receive copies of written documents related to a grievance, and be present at meetings held at each level of the formal grievance process, including internal meetings, and arbitration. The Grantee representative shall request advice and assistance from the County Counsel as needed throughout the grievance process.
- B. **Planning Council:** The Grantee shall inform the Planning Council staff when a grievance is received, and shall mention active grievances and the resolution of grievances when providing the Grantee report to the Planning Council. The Grantee shall not identify the grievant or provide details of the grievance.



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Definitions

AAA – American Arbitration Association

Affected Party – An entity or individual that has standing to file a grievance due to being directly affected by the outcome of a covered process under these grievance procedures, such as service providers eligible for Ryan White Part A or Part B funds (including MAI funds), consumer groups, PLWH caucuses, and the Planning Council.

Arbitration – The submission of a dispute to an impartial or independent individual or panel for a binding determination. Arbitration is usually carried out under a set of rules. The decision of an arbitrator generally has the force of law, although it generally does not set a precedent on how future disputes will be resolved.

Arbitrator – An individual selected to decide a dispute or grievance. Arbitrators may be selected by the parties or by another individual or entity.

Binding – A process in which parties agree to accept – to be bound by – the decision of a third party such as an arbitrator.

Costs – Charges for administering a dispute resolution process.

Day – In these policies, refers to a business or working day, not a calendar day.

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

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

Grievant – An entity or eligible individual seeking a formal resolution of a grievance.

Impartiality – Freedom from bias or favoritism, in word or action; a commitment to aid all parties, not just a single entity or individual, in reaching a mutually acceptable agreement.

Neutral – A term used to describe an independent third party, including a mediator or arbitrator, selected to resolve a dispute or grievance. The term indicates that the person does not favor either side in the dispute.



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Definitions

Non-binding – Techniques in which the parties to a dispute attempt to reach an agreement but are not required to accept the results. The agreement must be voluntarily accepted by both parties; results are not imposed by a third party as they are in binding arbitration.

Party – Refers to one of the participants in the grievance process. This includes the grievant (the group or individual that brings the grievance action), and the respondent, (the entity against which the grievance is brought). In these grievance procedures, the second party, the respondent, is the Grantee, the San Bernardino Department of Public Health.

Remedy – The relief or result sought by a grievant in bringing a grievance. It can include a process change, monetary damages, or (in some situations) a reversal of a decision. In this TGA, remedies are prospective, which means they apply to future funding-related decisions, but do not apply retroactively, to past funding decisions.

Standing – A term referring to the eligibility of an entity or individual to bring a grievance. In the case of Ryan White Part A or Part B grievances, an entity or person that is directly affected by the decision has standing to challenge a Grantee or Planning Council decision with respect to funding.

With Respect to Funding – Refers to the types of grievances that must be covered under this Grantee grievance policy, including deviations from the Grantee's established contracting and awards process or subsequent changes in contractors or awards, or contracts and awards or changes in these contracts or awards that are not consistent with the priorities, directives, and resource allocations made by the Planning Council.