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IEHPC Reviewed and Revisions:
San Bernardino County Counsel Review:
Ryan White Program Review of Revisions and Recommendations:
IEHPC Planning Council Approved:
San Bernardino County Board Of Supervisors approval:

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- B. Within ten (10) business days following any recommended substantive amendment to these Bylaws, the Council Support Staff will submit copies of the Bylaws, with the proposed amendments, to the Department of Public Health, for submission to County Counsel and the Board of Supervisors and to the HRSA Project Officer.
- C. Bylaws amendments will become effective only after they are adopted by the Board of Supervisors.

Section 3 – Copies of Bylaws

- A. The Council Support Staff and the RWP shall keep updated copies of the Council Bylaws.
- B. Council Support Staff shall distribute the most current version to new Council members as part of their orientation package.
- C. Copies of the Bylaws will be made available to the public upon request.

Article XI **Grievance Procedures**

Section 1 – Legislative Requirements

Ryan White legislation, 42 USC §300ff-12(b)(6), et seq, requires Planning Councils to develop procedures for addressing grievances with respect to funding, including procedures for submitting grievances that cannot be resolved to binding arbitration. The legislation requires that these procedures be described in the Bylaws of the Council and be consistent with model grievance procedures developed by HRSA. HRSA expects Council and RWP grievance procedures to be coordinated.

Section 2 – Purpose

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

- A. Enables eligible individuals or entities to exercise their rights to file an informal or formal grievance with regard to specific Council policies and procedures and their implementation with respect to the Priority Setting and Resource Allocation,
- B. Prevents avoidable grievances and resolves complaints at the informal level whenever possible,
- C. Ensures that each grievance is addressed and resolved fairly, quickly, and
- D. Meets HRSA requirements and represents sound practice for a TGA.
- E. Any other concerns related to the PRSA should be referred to the Council Development Committee.

Section 3 – Who May File a Grievance

Entities and individuals within the TGA who are directly affected by the outcome of a decision related to the Priority Setting and Resource Allocation policies and processes (“grievant”) are eligible to file a grievance. This may include:

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- A. Providers eligible to receive Ryan White HIV/AIDS program funding;
- B. Consumer groups and PLWH caucuses, and
- C. Individual PLWH who are eligible to receive Ryan White services.

Section 4 – Eligible Grievances

Eligible grievances pertain only to the processing or establishing of priorities, allocating funds to those priorities, and any subsequent process to change the priorities or allocations. Directly affected parties may file a grievance with regard to either of the following:

- A. Deviations from the Council’s established, written priority setting or resource allocation process and related policies, and
- B. Deviations from an established, written process for any subsequent changes to priorities or allocations.

Information Requests: If an individual wishes to request information concerning Council process, Council decisions, or outcomes of Council decisions, the individual must use the County of San Bernardino’s request for information process and not this Bylaws’ Grievance Procedure. If a grievance is submitted in which any information is requested, it will not be accepted as a Grievance but will be treated as a Public Records request and forwarded to the appropriate personnel.

Section 5 – Prospective Implementation of Settlements

Any settlement reached through mediation or arbitration shall involve prospective (future) change. It shall not require reversal of priorities or categorical allocations made during the process that is being grieved. For example, if a mediation or arbitration agreement specifies that a Council policy, process, or procedure should be revised, the revision shall be made and then applied in future decision making.

Section 6 – Dispute Prevention

- A. The Council recognizes that the best way to deal with grievances is to prevent them. The Council shall make all reasonable efforts to prevent circumstances or situations regarding the priority setting or resource allocation processes that could give rise to a grievance.
- B. Prevention efforts shall include at least the following:
 - 1. Annual review and updating of priority setting and resource allocations (PSRA) procedures and related policies and procedures.
 - 2. Use of clear written PSRA and related policies that describe how decisions are made and are available to both Council members and affected parties.
 - 3. Training for new Council members and refresher training for all Council members prior to the PSRA process each year, to ensure that they understand and are prepared to follow PSRA and other Council policies and procedures.

4. Presentation of the process at the beginning of the PSRA or reallocations process, along with related policies, especially Conflict of Interest, to ensure understanding of how they apply to and during the process.
5. Identification at the beginning of the process of those Council members that have met any training or data presentation participation requirements and are eligible to participate in the decision-making process, and exclusion of any members who have not met these requirements.
6. Clear instructions to Council members to ensure that if, during the PSRA or other decision-making process, they believe adopted policies and procedure are not being followed; they respectfully but immediately bring their concern to the attention of a Co-Chair or other officer.
7. Specific opportunities for interested parties to provide feedback on ways the decision-making process can be improved in future years.

Section 7 – Informal Grievance Process

- A. When potential grievances arise, first steps shall involve informal conflict resolution efforts before the concern becomes a grievance. When a grievance is filed, the initial approach will be non-binding negotiations. For cases that cannot be resolved in this manner, subsequent steps shall be undertaken, with binding arbitration as a last resort.
- B. Efforts to prevent formal grievances shall include the following:
 1. The Vice Chair shall serve as the Council's designated point of contact for a grievant with an eligible grievance as defined at section 5 above. A grievant that appears to have standing to file a grievance and has concerns regarding adherence to established, written processes that are covered by these grievance procedures shall be encouraged to express these concerns to the Vice Chair directly or through the Council Support Staff at the earliest opportunity. In order for the informal process to have time to work, the contact must be made within ten (10) business days after the disputed situation occurred.
 2. In any situation where the Vice Chair has a real or perceived conflict of interest or inability to play a neutral role, the Community Co-Chair will appoint another Officer or Committee Chair without such a conflict to handle that situation.
 3. The Vice Chair will log all such contacts and discussions, recording the date, affected party name and contact information, summary of grievance, and the date of the event that led to the grievance.
 4. The Vice Chair shall meet with the grievant to review the expressed grievance. The discussion will occur within five (5) business days after the grievance is brought to the Vice Chair or Council Support Staff. The Vice Chair or Council Support Staff will explain the procedures used and the rationale for the decision in question, and will provide other information as appropriate. The Vice Chair may involve the Co-Chairs or other officers as needed. Where possible, the grievance will be resolved through this discussion. The Vice Chair may not make

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commitments on behalf of the Council, but may agree to bring the grievance to the Council or the appropriate committee and will summarize the discussion in writing and provide the report to the Co-Chairs and to Council Support Staff for the files.

5. If these efforts do not resolve the grievance, the Vice Chair will ensure that the grievant receives written information about the grievance process, timeframes, and how to file a formal 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 are as follows:

- A. An internal review of the grievance and grievant to determine whether the grievance and grievant have standing under these procedures,
- B. An internal hearing to explore the facts and seek resolution,
- C. Non-binding mediation, and
- D. Binding arbitration.

Section 9 – Filing a Grievance

- A. The grievant must submit a written Grievance Intake Form within twenty (20) business days after the event on which the grievance is based. If no Grievance Intake Form is submitted within this period, the grievant will lose the right to file a grievance.
- B. The completed form may be submitted to the Council Support Staff office by U.S. mail with return receipt requested, electronic mail (with electronic signature), fax, or personal delivery during normal business hours.
- C. Council Support Staff will log in the grievance, and within three (3) 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. Council Support Staff will provide copies of the grievance to the Co-Chairs and the Vice Chair within three (3) business days after receipt.

Section 10 – Determination of Standing

- A. Upon receipt of a grievance the Grievance Committee shall be convened as specified at Article XI, section 1 above. Within five (5) business days of receiving the grievance, the Grievance Committee shall determine whether the grievant or grievance have standing.
- B. Conflict of Interest provisions shall apply to selection of the Grievance Committee.
- C. The grievant will be informed of the decision within two (2) business days after the decision about standing is made.

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1. If the grievance is rejected, the letter must explain the reasons for the rejection and inform the grievant that he/she has ten (10) business days after the date of the letter of rejection to contact Council Support Staff to appeal the decision. If no appeal is filed, the grievant is not entitled to further participation in the grievance process.
2. If an appeal is filed, it will be heard by a majority of the Council officers, and their decision as to standing shall be final. The officers have ten (10) business days to reach a decision on standing.

Section 11 – Internal Review and Hearing

- A. If a grievance and grievant are found to have standing, the committee shall conduct a review of the circumstances and information available regarding the grievance and in most cases schedule a meeting at which the grievant shall have the opportunity to provide additional information and answer questions posed by the panel as input to their decision making. The committee will typically make its decision regarding the grievance and how it should be resolved immediately after the meeting with the grievant. This meeting and decision making shall occur within ten (10) business days after formation of the committee.
- B. The Vice Chair shall arrange for staff to send the recommended resolution to the grievant, by certified mail, within three (3) business days after the date of the review.
- C. If the grievant finds the report satisfactory, the grievant will indicate acceptance by signing one copy of the report and returning it to the staff.
- D. If the grievance is denied or if the grievant is not satisfied with the resolution in the report, the grievant may request formal non-binding mediation.

Section 12– Non-Binding Mediation

- A. The grievant shall have ten (10) business days from the date of receipt of the written report from the committee to request mediation, using a Request for Non-Binding Mediation Form. The form may be delivered to the Council Support Staff office via U.S. mail, return receipt requested, electronic mail (with electronic signature), fax, or personal delivery during normal business hours.
- B. If the Council Support Staff does not receive a Request for Non-Binding Mediation Form from the grievant within ten (10) business days, the grievant will waive all further rights to grieve the issue and all associated issues.
- C. Council Support Staff shall log in the request for mediation, and within three (3) business days after receipt, inform the grievant that the request has been received.
- D. The Council shall seek a mediator with the assistance of the Council Support Staff. Within five (5) business days after receipt of the request for mediation, the Council Support Staff shall provide the grievant the name of a neutral person who is skilled in mediation and lives in the TGA. This neutral person shall not have been involved with the decision that is the subject of the grievance and shall have no direct interest in the outcome of the grievance process. The grievant and the Council shall both

have the opportunity to request a different mediator if the grievant or anyone involved in the prior review of the grievance is acquainted with the mediator or feels he/she is not neutral. Any objection to the mediator must be received within five (5) days of receipt of the name. If no objection is received, the grievant waives his/her right to challenge the mediator.

- E. Upon appointment, the mediator shall, within five (5) business days, contact the grievant and Vice Chair and agree on a day, time, and location of the initial mediation meeting. The Vice Chair may represent the Council or may ask another member of the review panel to represent the Council in the mediation. The mediation meeting shall be scheduled within ten (10) business days after this first contact by the mediator. The mediator shall review the written report and other information on the circumstances and information available regarding the grievance. The mediator may ask the two parties each to provide a brief memorandum setting forth its position with regard to the issue(s) that need to be resolved. The mediator may share the memorandum with the other party with the consent of the party that prepared the memorandum.
- F. The mediator will facilitate a meeting between the parties to assist them in obtaining a resolution of the grievance. If the grievance is resolved, the mediator will prepare, a statement of resolution which shall be provided to the grievant and Council within five (5) business days after the mediation meeting. The statement of resolution shall be presented for approval at the next council meeting. If necessary a special meeting shall be called to address the resolution.
- G. If the mediator is unable to help the parties reach resolution or determines that an impasse has been reached, both parties will be so informed in writing. The written statement of impasse will be provided to the grievant and Council within five (5) business days after the mediation meeting.
- H. At this point either party may request binding arbitration, with the understanding that the decision of the arbitrator will be final and binding on both parties.

Section 13 – Binding Arbitration

- A. The grievant may submit a Request for Binding Arbitration to the Council Support Staff. The completed form must be received by Council Support Staff within ten (10) business days after the mediation ends. It may be submitted to the Council Support Staff office in writing via U.S. mail, return receipt requested, electronic mail (with electronic signature), fax, or personal delivery during normal business hours. If the Council Support Staff 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.
- B. Council Support Staff shall log in the request for arbitration, and, within two (2) business days after receipt, shall inform the grievant and the Vice Chair that the request has been received.

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- C. Council Support Staff shall request a neutral arbitrator through the American Arbitration Association (AAA), and the arbitration will be in accordance with the standards of the AAA. The AAA will provide the name of a disinterested person who is skilled in the process of arbitration to the Vice Chair or designee and grievant within ten (10) 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 he/she have any direct interest in the outcome of the grievance process. The grievant and the Council representative shall each approve the arbitrator or request a different arbitrator if the grievant or Council representative is acquainted with the arbitrator or questions his/her selection.
- D. Once the arbitrator has been accepted by both parties, he/she shall within three (3) business days contact the grievant and Vice Chair or designee and agree on the date, time, and location for an arbitration meeting. A meeting will be scheduled within fifteen (15) business days.
- E. 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.
- F. Within seven (7) business days after the arbitration meeting, the arbitrator will deliver to the grievant and the Council an arbitration summary and decision, signed by the arbitrator. This decision will resolve the grievance.
- G. Within three (3) business 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 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. A fee of \$50 shall be charged for filing a Request for Non-Binding Mediation, to contribute to the cost of mediation.
- C. A fee of \$100 will be charged for filing a Request for Binding Arbitration, to contribute to the cost of arbitration.
- D. In exceptional circumstances, the Council may waive either or both fees.
- E. 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 – Council Action Following Resolution of Grievances

Following any agreement reached regarding a grievance against the Council, the Vice Chair shall report to the Council regarding the nature of the grievance and the settlement. This shall include clarifying whether the agreement was made through internal dispute resolution efforts, mediation, or binding arbitration. Focus will be on ensuring an understanding of the terms of the agreement and the required or desirable

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actions to be taken by the Council to fully meet these terms and to avoid similar situations in the future. The Council will take action to ensure clear responsibility for ensuring that all provisions of the agreement are met within a specified time period.

Section 16 – Confidentiality and Protections

A. Confidentiality:

1. Mediators and arbitrators shall not divulge personal confidential information disclosed to them by the parties during mediation or arbitration, or share related records, reports, or other documents received, except that the mediator may provide such information to the arbitrator.
2. The Council grievance panels shall share with the Council only a description of the grievance, the public agreement reached, if any, or the areas of disagreement that were not resolved.
3. The Vice Chair shall summarize to the full Council the resolution of a grievance and the action required of the Council as described above, but shall not discuss personal confidential information shared during the meetings associated with dispute resolution.

B. Protections: A grievant shall not be discriminated against nor suffer retaliation as a result of filing a grievance.

Section 17 – Involvement of County Counsel and RWP

A. County Counsel: The Vice Chair and Council Support Staff shall keep the County Counsel, as a representative of the CEO, informed about all active grievances. At his/her discretion, the County Counsel may receive copies of all written documents related to a grievance, and be present at meetings held at each level of the formal grievance process, including internal committee meetings, mediation, and arbitration. The Vice shall request advice and assistance from County Counsel as needed throughout the grievance process.

B. RWP: The Council shall inform the RWP representative whenever a grievance is received, and shall keep him/her informed about the status of such grievances.