BOSTON EMA RYAN WHITE PLANNING COUNCIL GRIEVANCE PROCEDURE

PURPOSE

The purpose of this grievance procedure is to establish and codify a system of conflict and/or dispute resolution that will give all parties an equitable, clear, and transparent mechanism for resolving complaints and grievances, and for appealing decisions of the Planning Council.

It shall be the policy of the Boston EMA Planning Council to attempt to resolve grievances regarding Council decisions and/or actions through both informal and formal dispute mechanisms. This includes facilitated mediation and, if necessary, binding arbitration.

SCOPE

The requirements of the CARE Act and the policies of HRSA require that grievance procedures be established to address grievances related to funding. At a minimum, grievance procedures must address decisions regarding and/or a failure to follow:

1. Needs assessment process
2. Comprehensive planning process
3. Priority setting process
4. Allocation of funds to service categories

In addition, the Planning Council has determined that the following additional areas may be grieved under this process:

1. Deviations from established, written policies of the Planning Council, e.g., failure to follow established conflict of interest procedures (applies to Planning Council and Planning Council Members).

At least one of the following criteria must form the basis of the grievance:

1. Irregularity in the process
2. Inconsistency with findings of fact

STANDING

This grievance procedures allows, at a minimum, the following individuals and entities to bring a grievance against the Planning Council:

1. Members of the Planning Council (either as individuals or as groups of individuals)
2. Service providers affected by a process of the Planning Council
3. Individual consumers or consumer groups affected by a process of the Planning Council

DETERMINATION OF STANDING

In grievances related to the decisions or actions of the Planning Council, the CEO or their designee shall determine if the grievant has standing under these procedures.
PRE-DISPUTE/PREVENTATIVE MECHANISMS

The Planning Council has undertaken numerous efforts to ensure that all processes and procedures are transparent to minimize the need for formal conflict resolution. Processes have been standardized in the belief that by adhering to recognized processes, the need for an individual to file a grievance is lessened. These processes and initiatives include:

☐ Open Meetings

All activities of the Planning Council and its committees, caucuses, and task forces are undertaken during open meetings, with the exception of the Executive Committee meetings and the nominations committee meeting. In these meetings, any member may request that items of interest or concern to the individual be added to the meeting agenda and addressed during the meeting. Furthermore, each Planning Council meeting allows time for a member or guest to introduce issues of importance or concern. With the exception of the Executive Committee meeting, Council processes allow that any and all individuals in attendance have the opportunity to ask questions, provide comments, and to have concerns addressed. Members of the public and guests are not granted the right to vote at Planning Council meetings.

☐ Diverse Representation and Inclusion

The Planning Council is comprised of a broad spectrum of individuals who have been impacted by the HIV epidemic. Great care has been taken to ensure that the membership is inclusive of the various populations affected and infected by the HIV epidemic in the Boston EMA. The Planning Council also complies with the number of mandated membership seats as outlined in Public Health Service Acts that guide the administration of Ryan White Part A. In addition, the Chair of the Planning Council has endeavored to ensure that each of the standing committees of the Council also reflect the diversity of our community. To ensure that every voice may be heard, the Council has subcommittees to ensure that the various affected populations have a vehicle in which they may address issues of concern to their community. All members of Planning Council are entitled to voting privileges.

☐ Open Nomination and Member Appointment Process

As described in the bylaws, the Planning Council practices a fair and open nominations process. This process is designed to ensure that applicants for membership are evaluated fairly, that the application process is publicized, and the eligibility for membership is transparent.

☐ Conflict of Interest

The Planning Council has adopted rules to manage conflicts of interest. Potential members are required to declare a conflict of interest in their application to the Planning Council, and members are asked to declare a conflict of interest and abstain from voting in matters
in which they may have a financial interest. Please see section 4.9 of the bylaws for more details.

- **Orientation Session**

Each year, a formal training and orientation session is held for Planning Council members. The purpose of the orientation is to make members fully aware of their responsibility as a Planning Council member as well as the processes and procedures followed by the Council. Please see section 4.8 of the bylaws for topics that are covered in annual training activities.

**INFORMAL DISPUTE RESOLUTION**

Planning Council support staff and leadership, which may include the Planning Council Chair and/or Chair Elect, are available to meet with any concerned individual to provide for early, informal intervention and resolution of problems. Any grievance that is brought to the attention of support staff or brought before council shall be resolved promptly. An informal resolution meeting must occur within seven (7) business days of a written or oral grievance.

**FORMALIZED DISPUTE RESOLUTION MECHANISMS**

Should the aforementioned preventative mechanisms fail to address a grievance, the following will serve as guidance to formally resolve a dispute:

1. In no event shall an arbitration affect the timely administration of Planning Council activities. This includes the fair and timely distribution of Part A grant funds in the Boston EMA. There shall be uninterrupted continuation of the business of the Planning Council and its subcommittees and the business shall not be ceased during the period in which the dispute resolution process is undertaken.
2. In no event shall a remedy reached by a mediation or arbitration require the payment of funds to an individual.
3. Any individual involved in a grievance shall disclose any relationship with the entities involved in the grievance which would reasonably be expected to exert an influence on the individual's judgment if he or she were called upon to vote on the disposition of the grievance. Per the bylaws of the Planning Council, “a Planning Council member who has an identified conflict of interest on a specific issue will abstain from voting on that specific issue. This provision shall apply to all actions undertaken by the Planning Council and/or its committees, subcommittees, advisory or ad hoc committees, and task forces.”
4. To assist in the understanding of the basis for Planning Council operations and decisions, written documentation, particularly that related to the prioritization of services, allocation of funds, shall be provided as part of the dispute mechanism.
5. The confidentiality of any grievant will be protected throughout the dispute resolution process.
6. All parties to the mediation or arbitration process will be required to sign an acknowledgment form stating they are bound by law to protect the confidentiality of the disputants and will not discuss the case with others.
MEDIATION PROCESS

Mediation is an effort to bring the grievant and the respondent together to reach an agreeable resolution. Mediation is not intended to “find fault” with either party but is a facilitated mechanism in an attempt to resolve problems in communication and process.
A mediator is a neutral party that helps people involved in a dispute talk with each other about the conflict so each party can better understand why the conflict exists.
The Planning Council has adopted procedures that allow for two types of mediation:

- Council Mediation -- through the use of the Planning Council members
- Third Party Mediation -- through the use of a neutral third party from outside the Planning Council as directed by the CEO or their designee.

AUTHORITY

The Mediator or mediators shall have the authority to determine whether:

1. the Planning Council has acted outside the scope of its jurisdiction (e.g., taking actions not authorized under the Ryan White CARE Act, Planning Council Bylaws, Standard Operating Procedures, or other policies and procedures);
2. there was a fair consideration of the grievance though the Council’s processes; and,
3. there was abuse of discretion. An abuse of discretion is established if the grievant demonstrates that:

   - The Planning Council has proceeded in a manner that violates the Ryan White CARE Act, Council Bylaws, Standard Operating Procedures, or other policies and procedures;
   - The Council failed to articulate the reason for its decision; or,
   - There were no facts presented to the Planning Council which would reasonably support its decision.

Determination of error

1. If it is determined 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.
2. Settlements reached may be either prospective (which shall result in a revision of process in the future but shall not result in required reversal of approved expenditure) or retroactive in its application.

If it is determined that the issue proposed for consideration is not within the scope of topics that may be grieved upon, the grievant may request reconsideration by the Planning Council Executive Committee at the next regularly scheduled meeting following the original determination. Should the matter be time sensitive, the grievant may request in writing that the matter be discussed by Executive Committee members before the next regularly scheduled meeting. The determination of the Executive Committee shall be presented at the next regularly scheduled Planning Council Meeting for consideration of the full Planning Council. The determination of the full Planning Council shall be final. Should the grievant fail to make a request for reconsideration to the

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Executive Committee at the next regularly scheduled meeting following the original determination, the grievant forfeits that right and the original determination shall stand.

GRIEVANT V. PLANNING COUNCIL

The following options exist for formalized dispute resolution under these procedures. These options are listed in order of the sequence that must be followed:

A). Council Mediation Process
   1. The grievant shall submit a written summary of the issue at hand to the Planning Council Support Staff or a Chair or Chair Elect of the Planning Council. Request may also be submitted to:

   Boston Public Health Commission
   Attention: Planning Council Support Staff
   Infectious Disease Bureau, 2nd Floor
   1010 Massachusetts Avenue
   Boston, MA 02118
   pcs@bphc.org

   2. Upon receipt of a written grievance, the respondent will sign and document the date of receipt. The respondent may be a member of PCS support staff, the Planning Council chair, or another party that is not the accused party and who can confirm receipt of the grievance.

   3. The respondent shall have five (5) business days to sign the form and to notify PCS Staff, and the Executive Committee, including the CEO or their designated liaison.

   4. The Executive Committee, PCS and the CEO or their liaison shall review the request for dispute resolution and shall, within five (5) business days, determine if:

      • The grievant has standing under these procedures; and,
      • The issue proposed for consideration is within the scope of these procedures

   5. If both conditions affirmed, within five (5) business days of the determination, the CEO or their liaison shall:

      • provide written notice to the grievant of the determination to proceed and;
      • Schedule a dispute resolution session within thirty (30) days.

The hearing shall be closed to the public and shall only be attended by the following:

   • the grievant(s) and those individuals identified by the grievant as necessary to support his or her position;
   • the respondent(s) and those individuals identified by the respondent as necessary to support his or her position;

   6. The format to be followed is:
• Each side describes the incident from its own perspective (the grievant shall present first);
• Each party shall be encouraged to view the incident from the other side’s perspective; and,
• The Mediation panel will help the parties discuss the disagreement and assist the parties in reaching a mutually acceptable resolution of the complaint.

7. The mediator or mediators do not have the authority to impose a settlement on the parties but will attempt to help the parties reach a satisfactory resolution of their dispute.
8. The mediator or mediators are authorized to end the mediation whenever, in the judgement of the panel, further efforts at mediation would not contribute to a resolution of the dispute between the parties.
9. The mediator or mediators are authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement.
10. If the mediation is successful, a confidential summary of the case and resolution will be drafted. The agreement shall be written by the mediator(s) with the help of the parties and shall be signed by all parties in the dispute.
11. If no resolution is forthcoming from this or any subsequent meeting(s), within fifteen (15) days of the consultation, the mediator(s) will propose a solution and it shall be presented to the Executive Committee for official recommendation to the CEO or their designee for decision and action.

B) Outside Party Mediation Process

Upon exhaustion of remedies stated above, if either the grievant or respondent remains unsatisfied with the decision rendered, either may file an application with the CEO for non-binding mediation. The CEO or their designee shall appoint a neutral mediation panel, and the aforementioned steps shall be followed.

Within thirty (30) calendar days of receipt of the CEO or designee’s directive to proceed, the mediation panel a shall convene a dispute resolution hearing.

The hearing shall be closed to the public and shall only be attended by the following:
• the grievant(s) and those individuals identified by the grievant as necessary to support his/her position;
• the respondent(s) and those individuals identified by the respondent as necessary to support his/her position
• the members of the Mediation Panel;
• neutral third parties that the Mediation Panel has determined to have information or perspectives which might assist in the proceedings; and,
• The Chair or Chair Elect of the Planning Council
• A recorder

The format to be followed is:
• Each side describes the incident from its own perspective (the grievant shall present first)
• Each party shall be encouraged to view the incident from the other side’s perspective
• The Mediation panel will help the parties discuss the disagreement and assist the parties in reaching a mutually acceptable resolution of the complaint.
• The Mediation Panel does not have the authority to impose a settlement on the parties but will attempt to help the parties reach a satisfactory resolution of their dispute.
• The Mediation Panel is authorized to end the mediation whenever, in the judgement of the panel, further efforts at mediation would not contribute to a resolution of the dispute between the parties.
• The Mediation Panel is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement.
• By the end of the fifteen (15) business day period following the initial mediation hearing, resolution or impasse (a decision by the Third-Party Mediation Panel not to proceed) shall be reached. Upon recommendation of the Chair of the Third-Party Mediation Panel, and agreement of the other parties, this period may be extended by the CEO or their designee for another five (5) business day period if resolution appears imminent by the end of the extension.

If the mediation is successful, a confidential summary of the case will be forwarded to the CEO who will provide blinded (complainant names removed) summaries to the Executive Committee. The agreement shall be written by the Mediation Panel with the help of the parties and shall be signed by all parties in the dispute.

If no resolution is forthcoming from this or any subsequent meeting(s), within fifteen (15) business days of the consultation, a solution will be devised by the Mediation Panel and a recommendation for resolution shall be presented in Executive Session of the Executive Committee for official recommendation to the Chief Elected Official or their designee for decision and action.

If the aforementioned mediation sessions do not successfully address a grievance brought before the Planning Council, the CEO or their designee is granted authority to use whatever resources necessary to reach a conclusion.
ATTACHMENT 1

BOSTON EMA GRIEVANCE PROCEDURE CONFIDENTIALITY FORM

I, the undersigned, hereby affirm that:

1. I have been informed and acknowledge that during the conduct of the dispute resolution process I may be the recipient of, or made aware of, information which is considered to be confidential;
2. Any and all information provided (either in verbal, electronic, or written form) to me in fulfilling my role in this dispute resolution process shall remain confidential throughout the process and beyond;
3. I agree that I will not discuss any issues related to this action with anyone -- at any time -- except as may be required during the actual hearings which are a part of this process; and,
4. I understand that failure to comply with the confidentiality requirements of this process may result in my dismissal from the Planning Council and/or may subject me to such civil and/or criminal actions as may exist under Massachusetts law.

__________________________________________________________
Signature and date

__________________________________________________________
Printed Name
ATTACHMENT 2

BOSTON EMA SUBMISSION OF GRIEVANCE TO DISPUTE RESOLUTION

----------------------------------To be completed by receiving authority---------------------------------

Grievance # ______________________________

Signature of Receiving Authority ____________________________________________

Date __________________________________________________________________________

Time __________________________________________________________________________

For parties submitting a grievance:

The undersigned party(ies) submit(s) the following dispute for resolution under the following grievance procedure: (check one)

Individual/Group/Agency v. Planning Council
Scope of Grievance:
☑ Needs assessment process
☑ Comprehensive planning process
☑ Priority setting process
☑ Allocation of funds to service categories
☐ Other

Procedure requested by submitting party(ies): (check one)

☑ Council Process (must be exhausted before selecting B or C)
☑ Non-Binding Outside Party Mediation (must be exhausted before selecting C)
☑ Binding Arbitration (must first have exhausted A and B)

Individual/Group/Agency v. Grantee
Procedure designated by receiving authority: To be completed by receiving authority

☑ Council Process
☑ Non-Binding Outside Party Mediation
☑ Binding Arbitration
Statement of Grievance: (must include date questioned decision/action was taken, by what entity, and the reasons for filing the grievance; use additional sheets as required)

Statement of Previous Action Taken: (The steps the grievant has taken to date to seek resolution including any offer of resolution and reasons for rejection; use additional sheets as required)

Statement of Remedy Desired by Grievant: (recommended solution or relief requested; use additional sheets as required)

*Note that remedies may be limited to future action and may not be able to reverse decisions retroactively*