

HIV Health Services Planning Council

Jacksonville TGA

**Formal Procedures Governing the
Management of Disputes and Grievances**

**GRIEVANCES APPLICABLE
TO THE
METROPOLITAN JACKSONVILLE AREA
HIV HEALTH SERVICES PLANNING COUNCIL**

Revised 2008

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**METROPOLITAN JACKSONVILLE AREA
HIV HEALTH SERVICES PLANNING COUNCIL
RYAN WHITE CARE ACT PART A**

Formal Procedures Governing the Management of Disputes and Grievances
Applicable to Funding Decisions

PLANNING COUNCIL GREIVANCE PROCEDURES

APPLICABLE LAW: Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006, PL 109-415.

I. STATEMENT OF INTENT

It is the intent of the Jacksonville HIV Health Services Planning Council (hereafter referred to as the "Planning Council") to provide an appropriate mechanism through which individuals and/or agencies may set forth grievances regarding decisions of the Planning Council related to the prioritization and allocation of Ryan White Part A funds. Grievances may relate to decisions regarding and/or failure to follow:

- 1) The Priority Setting Process
- 2) The Allocation of Funds to Service Categories
- 3) Conflict of Interest Procedures.

The procedures adopted by the Planning Council for this purpose are intended to provide a timely, orderly, and fair process for addressing dissatisfaction.

II. DEFINITION OF TERMS

For the purpose of this procedure, the following key terms are hereby defined:

Arbitration: the submission of disputes to an impartial or independent individual or panel for a binding determination. Arbitration is usually carried out in conformity with a set of rules. The decision of the arbitrator generally has the force of law, although generally it does not set a precedent.

Arbitrator: an individual or panel of individuals selected to decide a dispute or grievance. Arbitrators may be selected by the parties or by an individual or entity.

Binding: a process in which parties agree to be bound by the decision of an arbitrator or other third party.

Cost: charges for administering a dispute settlement process.

Day: refers to a working day.

Dispute Prevention: techniques or approaches that are used by an organization to resolve disagreements at an early and informal stage to avoid or minimize the number of disputes that reach the grievance process.

Entity: a person, corporation or caucuses.

Grantee: the entity that is legally authorized to receive and distribute Ryan White funding.

Grievance: a complaint or dispute that has reached the stage where the affected party seeks a structured approach to its resolution.

Grievance Form: a formal document on which the grievant may enter a complaint. A sample of this form is provided in these procedures.

Grievant: a person or entity seeking structured resolution of a grievance.

Mediation: a voluntary process in which an impartial, and usually independent, third party assists the parties to a dispute in reaching an acceptable resolution. Mediation may involve meetings held by the mediator with the parties together and separately. The results of mediation can become binding on the parties if the parties agree to make it binding.

Mediator: a trained, impartial and usually independent third party selected by the parties to the dispute or by another entity to help the parties reach an agreement on a determined set of issues.

Neutral: an independent third party, who may be an arbitrator or a mediator, selected to resolve a dispute or grievance.

Non-Aligned PLWH Planning Council Member: consumers who do not have a conflict of interest.

Non-binding: techniques through which the parties to a dispute attempt to reach an agreement. Both parties must agree to the results. Results are not imposed by the third party as they are in binding arbitration or in a judicial proceeding.

Party: one of the participants in the grievance process. This includes the grievant (or person of group), who brings the grievance action, and the person or group against which the grievance is brought.

PLWH: Person Living with HIV.

Priority Setting: the process used by the Planning Council to prioritize service categories, to ensure consistency with locally identified needs, and to address how best to meet each priority.

Resource Allocation: the legislatively mandated responsibility of the Planning Council to assign CARE Act dollars or percentages across specific service categories, using key information such as documented need, defined service priorities and other resources as part of the process.

Grievance Intake Coordinator: member of the Planning Council Support Staff who investigates the facts of a situation and makes recommendations to the parties. The recommendations of this individual are not binding and his or her effectiveness depends in large measure on the ability to persuade the parties to accept his or her recommendation.

III. DISPUTE PREVENTION AND AVOIDANCE

Although not formally part of the grievance procedures, the Planning Council has developed written internal working procedures that promote dispute avoidance. Written documentation, which clarifies roles, functions and processes include:

- Planning Council Bylaws clearly defines committee structures, conflict of interest, structure oversight, voting procedures and member responsibilities.
- A comprehensive plan defining long term goals for the TGA based on identified need within the community.
- A clearly defined nominating process.
- Clearly defined procedures for priority setting and allocation of funds.
- Establishment of a Grievance Committee.
- Development of a more comprehensive conflict of interest policy.
- Continuous solicitation for input from service providers throughout the TGA.

IV. TYPES OF GRIEVANCES COVERED

The types of grievances covered by the Planning Council process include:

- Deviations from an established, written priority setting or resource allocation process, including failure to follow established conflict of interest procedures.
- Deviations from an established, written process for any subsequent changes to priorities or allocations.

Any grievance brought to the attention of the Planning Council or the Grievance Intake Coordinator that falls under the proper jurisdiction of the Grantee will be referred to the Grantee.

V. INDIVIDUALS AND AGENCIES ELIGIBLE TO FILE A GRIEVANCE

Individuals and agencies directly affected by the outcome of a decision related to the prioritization and allocation of Ryan White Part A Planning Council funding process are eligible to file a grievance. Directly affected parties include the following:

- Providers eligible to receive Ryan White Part A funding.
- Consumer/PLWH groups, coalitions or caucuses.
- Members of the Planning Council as individuals or as a group or committee.
- Grantee.

VI. GRIEVANCE PROCESS

Prior to filing a formal grievance against the Planning Council, it is hoped that the grievant will consult with staff of the Planning Council to determine if the issue in question can be resolved through the existing mechanisms of the Planning Council for prioritization and allocation or decisions regarding funding. The alternative informal mechanism is: to request to be heard during the public comment section of the next monthly Planning Council meeting. The grievant may choose to by-pass this informal process and proceed with filing a formal grievance.

A. Point of Contact Inquiries Concerning Process

Any grievant may contact the Grievance Intake Coordinator to obtain both information about the Planning Council's Grievance Procedures and a copy of a "Grievance Form." The Grievance Intake Coordinator is required to review with the grievant: the "Grievance Form", procedures for non-binding and binding resolution, time-lines and costs related to filing a grievance.

B. Initial Requirements for Filing a Grievance

Individuals and agencies directly affected who wish to submit a grievance regarding a decision of the Planning Council must complete the following requirements:

- 1) The "Grievance Form" must be received by the Grievance Intake Coordinator within 30 calendar days from the date of the Planning Council's decision. If a grievance is filed by a consumer, consumer group

or PLWH coalition and/or caucus, a check in the amount of \$150 must be included. If a grievance is filed by an agency or Planning Council member, a check in the amount of \$250 must be included. If a grievance is filed by a non-aligned PLWH Planning Council member, a check in the amount of \$150 must be included. All checks must be made payable to the City of Jacksonville.

- 2) The "Grievance Form" must include the specific reason(s) for the grievance and supporting documentation, if available, must be appended to the "Grievance Form".
- 3) The "Grievance Form" must include the specific remedy being sought by the grievant.
- 4) The "Grievance Form" and check should be delivered in person or by return receipt mail to:

Grievance Intake Coordinator
Ryan White Part A Program
1809 Art Museum Drive
Jacksonville, FL 32207
(904) 858-2800, ext. 237

C. Acceptance of Grievances and Notification

Upon receipt of the "Grievance Form", the Grievance Intake Coordinator will review the form to determine if the grievance has met the initial requirements for filing, as outlined above. The Grievance Intake Coordinator will acknowledge receipt of the filed grievance and notify the Grievance Committee co-chairs and grievant within 5 working days.

VII. STEPS IN THE GRIEVANCE PROCESS

A. Step One – Pre-Mediation

Within five (5) working days upon receipt of the filed grievance, the Grievance Intake Coordinator will arrange a meeting between the grievant and Grievance Committee. The Grievance Committee will carefully review the facts and other supporting evidence of the complaint(s), and will give the grievant an opportunity to speak to the issue. Within five (5) working days of the meeting, the Grievance Committee will send a written response of their decision to the grievant and the Planning Council co-chairs. The grievant may, if dissatisfied, appeal the decision within five (5) working days upon receipt of the decision and proceed to the next step, which is mediation.

B. Step Two – Mediation

Mediation will be handled by the Duval County Fourth Judicial Circuit, which is an independent and impartial third party that has been selected in advance for the purpose of resolving particular grievances. The Grievance Coordinator will instruct the grievant how to complete the “Request for Mediation’ form, if requested.

The mediator may not be a member of the Planning Council, affiliated with the grievant, recipient of a current Part A funding contract, a fiscal agent representative or a representative of the Grantee.

The Planning Council co-chairs will attend the mediation session(s) to represent the interest of the Planning Council.

Every effort should be made by both parties to resolve the grievance issues at the mediation level due the costly nature of Binding Arbitration.

The grievant will be instructed by the Grievance Intake Coordinator how to file for mediation. The Grievance Intake Coordinator will in consultation with the mediator, grievant, and Planning Council co-chair determine the schedule the time and location of the mediation session. The mediator will determine the procedure for the mediation session. Mediation must begin within 10 working days following an appeal. The mediation process will be completed within 20 working days.

If the grievant is not satisfied with the results of the mediation, the grievant will be instructed by the mediator how to proceed to the next step in the grievance process, which is binding arbitration.

Every effort should be made by both parties to resolve the grievance issues at the mediation level due to the costly nature of Binding Arbitration.

C. Step Three – Binding Arbitration

Any dispute arising out of or relating to the Planning Council’s Grievance Procedures relative to Funding, or the breach thereof, shall be finally resolved by arbitration administered by the American Arbitration Association (AAA) under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

The grievant may access the American Arbitration Association at: www.adr.org to obtain the appropriate Rules and information about the Company.

Arbitrator Administrative fees are based on the amount of the claim or counterclaim. Filing fees are payable in full by a filing party when a claim, counterclaim is filed.

The entire process of binding arbitration, from the time of notification will not exceed 60 working days. The initial hearing with the arbitrator will normally take place within 15 working days of notification of intent. The arbitrator will render a decision in writing as specified in the Rules.

The arbitrator may not be a member of the Planning Council, affiliated with the grievant, a recipient of current Title I funding or a representative of the Grantee.

VIII. RULES OF THE GRIEVANCE PROCESS

A. Extent of Remedies Available

Because eligible grievances against the Planning Council may only affect 1) the priority setting process; 2) the allocation of funds to service categories, and; 3) conflict of interest procedures, remedies are limited to future action and may not be retroactive.

B. Assignment of Costs

Costs for all non-binding and binding grievances will be the initial responsibility of the grievant. The grievant is expected to pay all filing fees and initial cost for both mediation and arbitration. In the event of a decision against the grievant at any step in the Grievance Process, the grievant will be expected to pay all incurred costs. In the event of a decision in favor of the grievant at any step in the Grievance Process, the Planning Council will assume responsibility for reimbursement for all costs incurred during the current Grievance Process.

The estimated costs are as follows:

Step One – Pre-Mediation

Filing Fee for Pre-Mediation (Grievance Committee)

If a grievance is filed by a consumer group or a PLWH coalition and/or caucus, a check in the amount of \$0.00 must be included. If a grievance is filed by an agency or a Planning Council member, a check in the amount of \$0.00 must be included. If a grievance is filed by a non-aligned PLWH member of the Planning Council, a check in the amount of \$0.00 must be included.

Step Two – Mediation

Filing Fee for Mediation

If a request for mediation is filed by a consumer group or a PLWH coalition and/or caucus, a check in the amount of \$150 must be included. If a request for mediation is filed by an agency or a Planning Council member, a check in the amount of \$250 must be included. If a request for mediation is filed by a non-aligned PLWH member of the Planning Council, a check in the amount of \$150.00 must be included. All checks will be made payable to the City of Jacksonville.

Step Three – Binding Arbitration

Filing and Hearing Fees for Binding Arbitration

The appropriate filing fee must be remitted to the AAA with demand. The fee schedule can be found in the AAA Rules, which can be found by visiting www.adr.org.

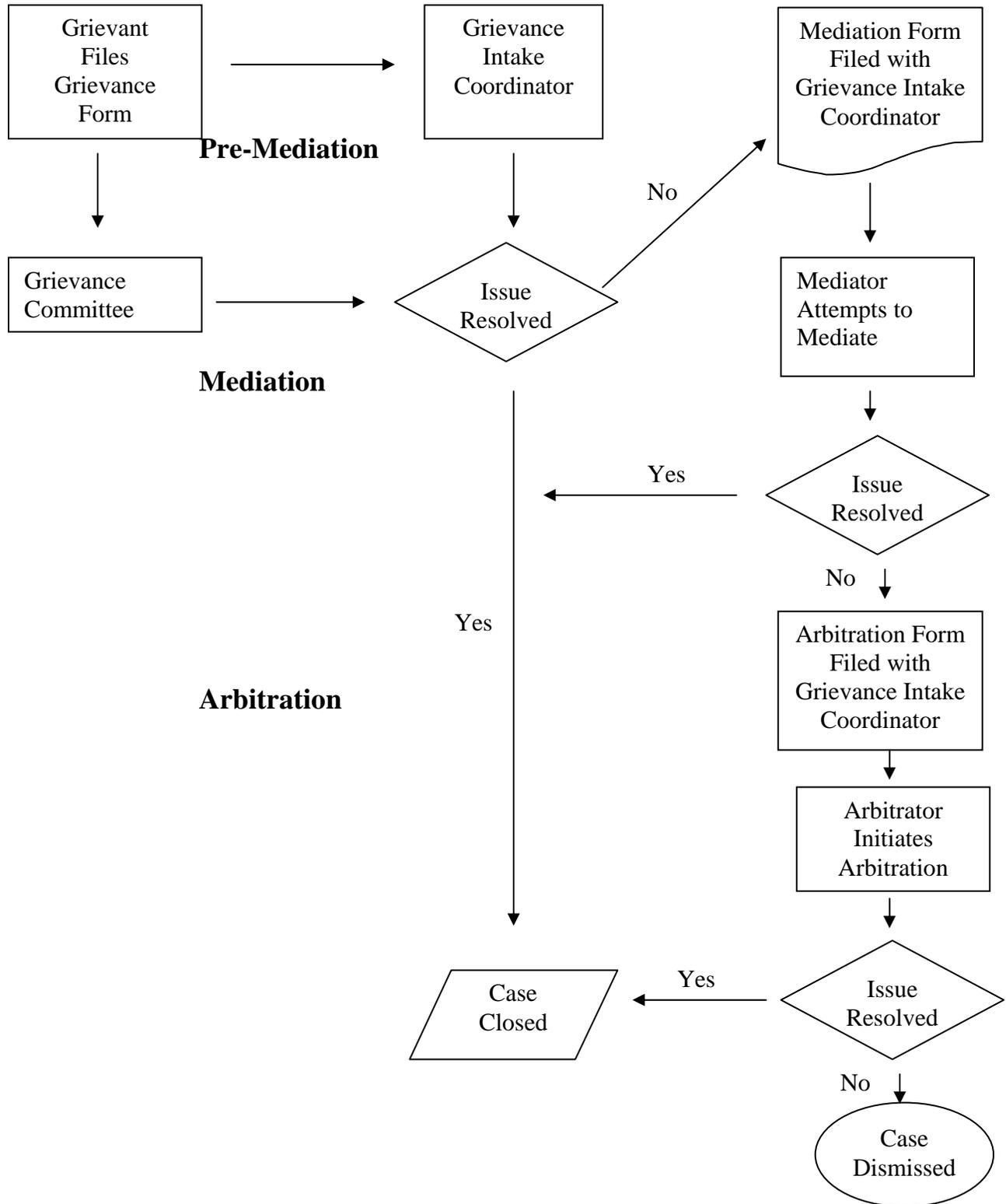
C. Confidentiality

Any confidential information disclosed during any of the above mentioned Grievance Processes shall not be disclosed by any of the parties involved. Disclosure of HIV (+) status of any individual involved in these processes requires the expressed written approval of the individual in question. All reports, records and other documents received by any third party (i.e. the Grievance Intake Coordinator, Mediator or Arbitrator) while involved in these Grievance Processes shall also be considered confidential.

D. Review of the Grievance Process

The Executive Committee of the Planning Council will review annually all refused grievances for the purpose of ensuring fairness to all parties and to evaluate the effectiveness of these Grievance Procedures.

**APPENDIX A
JACKSONVILLE TGA
PROCESS FLOW DIAGRAM FOR THE MANAGEMENT
OF DISPUTES AND GRIEVANCES**



APPENDIX B

**Metropolitan Jacksonville Area HIV Health Services Planning Council
GRIEVANCE FORM
Pre-Mediation**

Instructions: Individuals or agencies wishing to grieve a decision of the Planning Council are advised to review the Planning Council's published Grievance Procedures for information regarding initial filing requirements, costs and confidentiality. A copy of this document will be provided upon request to the Grievance Intake Coordinator. Please fill out this form completely and provide all information requested. Applicable filing fees must be submitted with the Grievance Form to the filing address listed in the Grievance Procedures. The fee schedule for grievances is as follows:

<u>Grievant</u>	<u>Fee Charged</u>
Consumer Group and/or PLWH coalition or caucus	\$0.00
Agency or Planning Council Member(s)	\$0.00
Non-Conflicted PLWH Planning Council Member	\$0.00

Grievant Information

Name of Individual(s): _____
Name of Agency (if applicable): _____
Mailing Address: _____
City/State/ZIP: _____
Phone Number: _____ FAX Number: _____

1. Please state the issue or decision of the Planning Council that you are grieving and explain how this issue or decision directly affects you or your agency. Please attach any supporting materials or documents related to this request to this form. (Attach additional comments).

2. Please state the specific remedy or solution being sought by you or your agency.

Signature of Grievant: _____ Date: _____

For use by the Grievance Intake Coordinator Only

Date Form Received: _____ Fee Received (Y/N): _____ Date of Relevant Council Decision: _____
Date of Notification of Grievance Acceptance/Rejection: _____
Date of Decision of the Grievance Committee: _____ *(a written copy of the decision must be attached to this form and forwarded to the Grievant and the Planning Council co-chairs)*
Signature of Grievance Intake Coordinator: _____ Date: _____

APPENDIX C

**Metropolitan Jacksonville Area HIV Health Services Planning Council
REQUEST FOR MEDIATION**

Instructions: Individuals or agencies not satisfied with the results of a grievance review by the Grievance Committee should complete this request for mediation within 5 days of the Committee's decision. The Grievant is advised to review the Planning Council's published Grievance Procedures document for information regarding filing fee requirements and confidentiality. Please fill out this form completely and provide all information requested. Applicable filing fees must be submitted with the Grievance Coordinator and checks/money orders made payable to the City of Jacksonville. Request for Mediation to the filing address listed in the Grievance Procedures. The filing fee for mediation is as follows:

Grievant	Filing Fee
Consumer Group and/or PLWH coalition or caucus	\$150.00
Agency or Planning Council Member(s)	\$250.00
Non-Aligned PLWH Planning Council Member	\$150.00

Grievant Information

Name of Individual(s): _____
Name of Agency (if applicable): _____
Mailing Address: _____
City/State/ZIP: _____
Phone Number: _____ FAX Number: _____

1. Please state the issue or decision of the Planning Council that you are grieving and explain how this issue or decision directly affects you or your agency. Please attach any supporting materials or documents related to this request to this form. (Attach additional comments).

2. Please state the specific remedy or solution being sought by you or your agency.

Signature of Grievant: _____ Date: _____

Signature of Planning Council Representative: _____ Date: _____

For use by the Grievance Intake Coordinator Only

Date Form Received: _____ Fee Received (Y/N): _____ Date of Relevant Council Decision: _____

Date of Notification of Grievance Acceptance/Rejection: _____

Date of Decision of Mediator: _____

(A written copy of the Mediation results and the Grievance Form must be attached to this form and forwarded to the Grievant and the Planning Council co-chairs)

Date(s) of Mediation Hearing(s): _____

Signature of Mediator: _____ Date: _____

APPENDIX D

**Metropolitan Jacksonville Area HIV Health Services Planning Council
REQUEST FOR BINDING ARBITRATION**

Instructions: Individuals or agencies not satisfied with the results of mediation by the Mediator should complete this request for binding arbitration within 5 days of the Mediator's decision. The Grievant is advised to review the Planning Council's published Grievance Procedures for information regarding initial filing requirements and confidentiality. Please fill out this form completely and provide all information requested in accordance with the Grievance Procedures. Upon completion, the Grievance Intake Coordinator will furnish the grievant with a Fact Sheet of How to Commence an AAA Arbitration. Fees will be determined by the American Arbitration Association.

Grievant Information

Name of Individual(s): _____
Name of Agency (if applicable): _____
Mailing Address: _____
City/State/ZIP: _____
Phone Number: _____ FAX Number: _____

1. Please state the issue or decision of the Planning Council that you are grieving and explain how this issue or decision directly affects you or your agency. Please attach any supporting materials or documents related to this request to this form.

2. Please state the specific remedy or solution being sought by you or your agency.

Signature of Grievant: _____ Date: _____

Signature of Planning Council Representative: _____ Date: _____

For use of the Arbitrator

Date Form Received: _____ Fee Received (Y/N): ____ Date of Decision of Mediator: _____

Date of Notification of Grievance Acceptance/Rejection: _____

Date of Decision of Arbitrator: _____ *(A written copy of the arbitrator's decision, along with copies of the Grievance Form and Request for Mediation, must be attached to this form and forwarded to the Grievant, Planning Council co-chairs and Grantee)*

Date(s) of Arbitration Hearing(s): _____

Signature of Arbitrator: _____ Date: _____