



Quick Reference Handout 8.5: Grievance Procedures

Overview

A grievance against a PC/PB is a complaint or dispute about a funding-related decision, made by an affected individual or entity, and involving a formal request for resolution. It involves deviations by a Ryan White HIV/AIDS Program (RWHAP) Part A planning council or planning body (PC/PB) from its established, written processes in making decisions related to funding. A grievance is different from other types of complaints, which may be informal or formal and often address issues like violations of the Code of Conduct.

The legislation says that:

- “A planning council...shall develop procedures for addressing grievances with respect to funding..., including procedures for submitting grievances that cannot be resolved to binding arbitration” and “such procedures shall be described in the by-laws of the planning council.”¹
- Grievance procedures must be consistent with model procedures developed by HRSA and must be reviewed by HRSA HAB.²

The Health Resources and Services Administration’s HIV/AIDS Bureau (HRSA HAB) requires every PC/PB to adopt and use formal, clear, written grievance procedures. HRSA HAB also recognizes that the best way to handle grievances is to prevent them. The following strategies can help a PC/PC avoid or manage grievances:

- Development and consistent use of clear, written decision-making processes for priority setting, resource allocation, and reallocation.
- Decision-making that occurs at open public meetings.
- Written documentation of both the decisions made and the processes used in reaching them.
- Use of informal methods to resolve problems before they become grievances.

The legislation requires the recipient to have its own grievance procedures for handling complaints about the process used for funding subrecipients to provide RWHAP Part A services. The PC/PB should consult with the recipient when developing or updating its own grievance procedures to be sure they are in alignment with each other and do not conflict.

Components of a Grievance Procedure

PC/PB grievance procedures should include specifics about the following:

1. **Who may bring a grievance:** This includes individuals or entities “directly affected” by the outcome of a decision related to funding, such as RWHAP Part A-eligible service providers, people receiving RWHAP Part A services, people with HIV groups, and others as determined locally.
2. **Types of grievances:** Grievances must be related to PC/PB decisions with respect to funding during Priority Setting and Resource Allocation (PSRA), including directives on how to meet the established priorities, and any later changes to priorities or allocations such as reallocations during the program year.³
3. **Non-binding procedures for resolving conflicts,** such as mediation, facilitation, or use of an ombudsperson. These may be recommended for use either before or after a formal grievance is filed. The intent is to resolve the conflict or grievance as promptly as possible through methods that are fair and impartial.
4. **Use of binding arbitration:** The legislation requires the use of binding arbitration as the last step in the process for grievances that cannot be resolved using non-binding procedures. The policy should specify that an independent and impartial third party must be used.
5. **Rules governing the grievance process,** including:
 - Rules for non-binding methods for resolving grievances
 - Rules for binding arbitration
 - Timing – time limits on various activities
 - Costs of the process and how they will be allocated between the PC/PB and the individual or entity filing the grievance
 - Funding of services or projects after an award has been made but while the grievance is pending – for example, results of the grievance could be addressed in the future (prospectively) or require changes in funding decisions (retroactively); if results apply in the future, changes are made in future decision-making but priorities or allocations that are the subject of the grievance are not reversed
 - Internal process for review of grievance requests
 - Selection of third parties for non-binding methods or binding arbitration

Example of a Situation Leading to a Grievance Against the PC/PB

Due to unexpected turnover at your PC/PB, both Co-Chairs and the Priority Setting and Resource Allocation Committee Chair are new. This has been their first planning cycle as leaders, and the process has been challenging. The PC/PB has a written process to guide PSRA, but some parts of it were not followed this year. The town hall meetings usually scheduled in two different parts of the service area to obtain input from people with HIV were not held. The full PC/PB carries out PSRA through an afternoon Data Presentation meeting, followed a week later by a day-long session with priority setting and directives handled in the morning and resource allocation in the afternoon. Because the Data Presentation meeting ran overtime this year, the Public Comment period usually provided at the end of the meeting was canceled. The same thing happened at the Priorities and Allocations meeting. As a result, a group of people with HIV who receive RWHAP Part A services and strongly believe that the Mental Health Services category needs more resources were given no chance to voice this need. The approved priorities and allocations are virtually unchanged from the current year, with no change in ranking or funding for Mental Health Services.

The group of people with HIV files a grievance, arguing that (1) they were denied an opportunity to state their needs, and (2) the PC/PB did not follow its own written and publicized PSRA process.

End Notes

¹Public Health Service Act, Title XXVI, §2602(b)(6).

²Public Health Service Act, Title XXVI, §2602(c)(2).

³Part A Manual, 2013, pages 134-139.