

**Denver EMA HIV Resources Planning Council
Policies and Procedures**

GRIEVANCE PROCEDURES

POLICY STATEMENT

The Ryan White Comprehensive AIDS Resources Emergency ACT of 1990 (PL 101-381), as amended by the Ryan White Comprehensive AIDS Resources Emergency Act Amendments of the 1996 (PL 104-146) Section 2602 requires planning councils to develop grievance procedures as a condition of eligibility for funding. Such procedures shall include a process for submitting grievances to binding arbitration and shall be reviewed by the Health Resources and Services Administration Project Director assigned to the Denver EMA.

These procedures are developed as stipulated in the HIV Resources Planning Council Bylaws, Article IX - Conflict Resolution adopted December 5, 1996.

NO RETROACTIVE APPLICATION

With respect to settlement reached through mediation or arbitration there will be no retroactive application. HIV Resources Planning Council processes prior to the adoption of these procedures cannot be reversed.

ACRONYMS

HIVRPC – Denver HIV Resources Planning Council established by the Chief Elected Official i.e., Mayor of the City of Denver.

PLWH - Persons living with the human immunodeficiency virus (HIV) disease.

Executive Committee – reviews issues related to Council procedures as they arise, including grievances.

DISPUTE PREVENTION PROCESS - DISCUSSION IN LIEU OF FILING A GRIEVANCE

In order to solve the problem(s), as quickly and efficiently as possible, person grieving could first discuss the problem(s) with the Chair of the Executive Committee, Co-Chairs or Vice-Chair of the Planning Council prior to filing a formal written grievance. This will be documented by the completion of the record of informal discussion by the person handling the complaint. If the action(s) of the above parties is the subject matter of the

ADOPTED by Planning Council 3/20/97
Revised by Rules Committee 4/21/98
Revised by Planning Council 5/4/00

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grievance and/or the informal discussion has not addressed the problem, the person grieving should proceed to filing a formal grievance.

WHO MAY FILE A GRIEVANCE

Individuals and entities who reside within the Denver EMA and are adversely affected by the outcome of a decision related to HIVRPC processes are eligible to file a grievance. Directly affected parties, i.e. consumers of Ryan White funded services, consumer groups, council members, Ryan White funded service providers, public individuals in the Denver EMA, HIVRPC members and HIVRPC staff are eligible to file a grievance.

The grieving party must complete the Grievance Intake Form prepared by the HIVRPC Executive Committee.

TYPES OF GRIEVANCES

Directly affected parties may grieve:

Deviations from the established processes, policies and procedures of the Denver EMA HIVRPC.

FILING A GRIEVANCE

Grievances must be filed within thirty 30 days of the disputed action.

REMEDIES FOR GRIEVANCES

FORM

The Grievance Intake Form shall be in writing and shall be signed and verified by the grieving party before a notary public or other person authorized by law to administer oaths and take acknowledgments.

CONTENTS

1. The full name of person adversely affected/party filing the grievance.

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2. The full name and current mailing address of the party alleged to have committed the violation.
3. A short and plain statement of the grievance including date that the questionable process took place, by what component of the HIVRPC and reason for filing grievance.
4. A statement of what result the person grieving is seeking.
5. If this request, is a request for binding arbitration, the filing party must attach a copy of the document terminating mediation [insert].

PLACE OF FILING & DATE OF FILING & MANNER OF FILING

The grievance shall be deemed filed as of the date of receipt of the grievance at the HIVRPC office.

Grievances can be filed in person at the:

Denver EMA HIV Resources Planning Council
4130 Tejon Street, Suite A
Denver, CO 80211
(720) 855-8641

Grievances can be filed by certified mail to:

Denver EMA HIV Resources Planning Council
4130 Tejon Street, Suite A
Denver, CO 80211

The grievance shall be in writing, shall be signed and verified by the grieving party before a notary public or other person authorized by law to administer oaths and take acknowledgments.

FILING FEE

There is a \$50.00 filing fee due at time of filing of grievance. If the filing fee becomes financially prohibitive it may be waived by the Council Administrator.

REVIEW OF GRIEVANCE

ADOPTED by Planning Council 3/20/97
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When a formal grievance is presented, the staff, an outside grievance panel, and a facilitator are responsible for reviewing the grievance to determine whether it is consistent with the type of grievance listed above and shall also determine that the person grieving is eligible to file a grievance. HIVRPC Staff shall also provide notice by mail to any person whose interests may be impaired by the disposition of the grievance that a grievance has been filed. The review, which may include an investigation and or a hearing, shall be scheduled within 20 working days of the date on which the grievance is filed and the filing party shall be notified in writing of the response to the grievance. Until a grievance review panel determines the complaint is a grievable offense, the person named in the grievance shall not see the grievance.

RULES OF MEDIATION

AGREEMENT OF PARTIES

As a prerequisite to mediation, the parties shall endeavor to eliminate the disputes through the HIV Resources Planning Council dispute prevention process. As a prerequisite to binding arbitration, the parties shall endeavor to eliminate the alleged violation by mediation.

Whenever, by stipulation or in their contract, the parties have provided for mediation or conciliation of existing or future disputes under these rules, they shall be deemed to have made these rules, as amended and in effect as of the date of the submission of the dispute, a part of their agreement. The parties, by written agreement, may vary the procedure set forth in these rules.

APPOINTMENT OF THE MEDIATOR

Following review of a grievance, the Executive Committee shall contact the American Arbitration Association (AAA) and request that a qualified mediator be appointed. Normally a single mediator will be appointed unless the parties agree otherwise or the AAA determines otherwise. The mediator or mediation service shall be selected concurrently with the notice of response to the grievance.

QUALIFICATIONS OF THE MEDIATOR

ADOPTED by Planning Council 3/20/97
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No person shall serve as a mediator in any dispute in which that person has any financial or personal interest in result of the mediation. Prior to accepting an appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the parties. Upon receipt of such information the Executive Committee shall either replace the mediator or immediately communicate the information to the parties for their comments. In the event that the parties disagree as to whether the mediator shall serve, the AAA shall appoint another mediator.

VACANCIES

If any mediator shall become unwilling or unable to serve, the Executive Committee Chair with the assistance of the HIVRPC staff shall appoint another mediator, unless the parties agree otherwise.

REPRESENTATION

Persons of the party's choice may represent any party. The names and addresses of such persons shall be communicated in writing to all parties and the mediator.

DATE, TIME AND PLACE OF MEDIATION

The mediator shall fix the date and time of each mediation session. The mediation shall be held at a convenient location, within the Denver EMA, agreeable to the mediator and the parties, as the mediator shall determine. Parties shall be advised in writing of the date, time and location of the mediation session at least ten (10) days in advance unless agreed to otherwise by the parties.

IDENTIFICATION OF MATTERS IN DISPUTE

At least ten (10) days prior to the first scheduled mediation session, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issue(s) that need to be resolved. At the discretion of the mediator, the parties may mutually exchange such memorandum.

At the first session, the parties will be expected to produce all information reasonably required for the mediator to understand the issue(s) presented.

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The mediator may request any party to supplement such information.

AUTHORITY OF THE MEDIATOR

The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning the technical aspects of the dispute, provided that all the parties agree and assume the expense of obtaining such advice. Arrangements for obtaining such advice shall be made by the mediator per the parties, as the mediator shall determine.

The mediator is authorized to end the mediation whenever, in the judgment of the mediator, further efforts at mediation would not contribute to a resolution of the dispute between the parties.

PRIVACY

Mediation sessions are private. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and the consent of the mediator.

CONFIDENTIALITY

The mediator shall not divulge confidential information disclosed to a mediator by the parties or by the witnesses in the course of the mediation. All records, reports, or other documents received by the mediator while serving in that capacity shall be confidential. The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any proceeding or judicial forum.

The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in arbitration, judicial, or other proceeding:

- A. Views expressed or suggested made by another party with respect to a possible settlement of the dispute;

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- B. Admissions made by another party in the course of the mediation proceedings;
- C. Proposals made or views expressed by the mediator; or
- D. The fact that another party had or had not indicated a willingness to accept a proposal for settlement made by the mediator.

NO STENOGRAPHIC RECORD

With respect to confidentiality of the mediation process, there shall be no stenographic and/or audio recording of these proceedings.

CONCLUSION OF MEDIATION

The mediation shall be concluded:

- A. By the execution of a settlement agreement by the parties;
- B. By a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or
- C. By written declaration of a party or parties to the effect that the mediation proceedings are terminated.

EXCLUSION OF LIABILITY

Neither the mediation service nor any mediator is a necessary party in judicial proceedings relating to the mediation.

Neither the mediation service nor any mediator shall be liable to any party for any act or omission in connection with any mediation conducted under these rules.

EXPENSES

The party producing witnesses shall pay the expenses of their witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator or mediation service, and the expenses of any witness and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise. Expenses shall be paid within thirty days (30) days of receipt of an invoice. Any cost incurred in the process will be shared by both parties; cost may be waived if fees become financially prohibitive.

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TIME PERIOD FOR CONDUCTING MEDIATION

Determination that grievances fall within scope of procedures, and notification of other party, and selection of mediator: 20 days. Meeting(s) with parties and resolution or decision by 3rd party not to Continue (impasse): 30 days.

AGREEMENT OF PARTIES

As a prerequisite to binding arbitration the parties shall endeavor to resolve the dispute by mediation.

Whenever, by stipulation or in their contract the parties have provided for binding arbitration of existing or future disputes under these rules, they shall be deemed to have made these rules, as amended and in effect as of the date of the submission of the dispute, a part of their agreement. The parties, by written agreement, may vary the procedure set forth in these rules.

ADMINISTRATION AND DELEGATION OF DUTIES

When parties agree to arbitrate under these rules they thereby authorize the arbitrator or arbitration service to administer the arbitration.

FILING A REQUEST FOR BINDING ARBITRATION

Within five (5) days of mediation being terminated under TERMINATION OF MEDIATION (b) or (c) above the grieving party may request binding arbitration by filing a request for arbitration with the HIVRPC, Executive Committee in a timely manner.

FORM

The request for binding arbitration shall be in writing and shall be signed and verified by the requesting party before a notary public or other person authorized by law to administer oaths and take acknowledgments.

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1. The full name of person adversely affected/party filing the grievance.
2. The full name and current mailing address of the party alleged to have committed the violation.
3. A short and plain statement of the grievance including the date that the questionable process took place, by what component of the HIVRPC and reason for filing grievance.
4. A statement of what results the grieving party is seeking.
5. If this request is a request for binding arbitration the filing party must attach a copy of the document terminating mediation (see attached form).

ARBITRATION

GOVERNING STANDARDS

Arbitration will be in accordance with standards set forth by the American Arbitration Association (AAA).

PLACE OF FILING

Requests for Arbitration shall be filed with the HIVRPC. Please call (720) 855-8641 to assure someone will be in the office at your arrival.

DATE OF FILING & MANNER OF FILING

The request for arbitration shall be deemed filed as of the date of receipt of the grievance at the HIVRPC office.

Grievance can be filed in person at the:

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4130 Tejon Street, Suite A
Denver, CO 80211

Grievances can be filed by certified mail to:

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The request for arbitration shall be in writing and shall be signed and verified by the grieving party before a notary public or other person authorized by law to administer oaths and take acknowledgments.

FILING FEE

There is a \$75.00 filing fee due at time of filing of request for arbitration. (If the filing fee becomes financially prohibitive it may be waived) by the Council Administrator.

REVIEWING THE REQUEST FOR ARBITRATION

HIVRPC and the AAA are responsible for reviewing the request for arbitration to determine whether it is consistent with the type of grievances listed above. The Council Administrator shall also determine that the person grieving is eligible to file a request for arbitration. The review shall be completed within ten (10) days of the date on which the request for arbitration is filed and the filing party shall be notified in writing of the result.

APPOINTMENT OF AN ARBITRATOR

No person shall serve as an arbitrator in any dispute in which that person has any financial or person interest in the result of the arbitration. Prior to accepting an appointment, the prospective arbitrator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the parties. Upon receipt of such information the Council Administrator shall immediately communicate the information to the parties for their comments. In the event that the parties disagree as to whether the arbitrator shall serve the AAA shall appoint another arbitrator.

QUALIFICATIONS OF THE ARBITRATOR

No person shall serve as an arbitrator in any dispute in which that person has any financial or personal interest in result of the mediation. Prior to accepting an appointment, the prospective arbitrator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the parties. Upon receipt of such information the AAA shall communicate the information to the parties for their

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comments. In event that the parties disagree as to whether the arbitrator shall serve the AAA shall appoint another arbitrator.

VACANCIES

If any arbitrator shall become unwilling or unable to serve, the AAA shall appoint another arbitrator, unless the parties agree otherwise.

REPRESENTATION

Persons of the party's choice may represent any party. The names and addresses of such persons shall be communicated in writing to all parties and the arbitrator.

DATE, TIME AND PLACE OF ARBITRATION

The arbitrator shall fix the date and time of each arbitration session. The arbitration shall be held at a convenient location, within the Denver EMA, agreeable to the arbitrator and parties. Parties shall be advised in writing of the time, date and location of the arbitration session at least 10 days in advance of the hearing date, unless otherwise agreed by the parties.

TIME PERIOD FOR CONDUCTING BINDING ARBITRATION

1. Determination by the grievant to use binding arbitration: 5 days
2. Notification of the other parties and selection of arbitrator and agreement of the parties to arbitrate: 10 days.
3. Hearing (if necessary): 60 days
4. Decision by arbitrator: 30 days.

TIME OF DECISION

The decision shall be made promptly by the arbitrator and, unless otherwise agreed by the parties, no later than thirty (30) days from the date of the closing of the hearing.

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The decision shall be in writing and shall be signed by the arbitrator. The decision shall be mailed to all parties involved in the dispute. No monetary damages shall be awarded.

FINAL DECISION

If a ruling of binding arbitration required that any process, policy & procedure be revised said revision(s) should be completed within the time specified in the arbitrator's order. All such revisions shall be applied prospectively.

DEFINITIONS

ARBITRATION. The submission of a dispute 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 an arbitrator generally has the force of law, although it generally does not set precedent.

ARBITRATOR. An individual or panel of individuals (usually three) selected to decide a dispute or grievance. The parties or arbitrators may select an individual or entity.

BINDING. A process in which parties agree to be bound by the decision of an arbitrator or other third party.

COSTS. 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 the earliest and most informal stage as possible to avoid and/or minimize the number of disputes that reach the grievance process.

FACILITATION. A voluntary process involving the use of techniques to improve the flow of information and develop trust between the parties to a dispute. Involve third party (facilitator) that, as in mediation, uses a process to

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assist the parties in reaching an agreement that is acceptable to the parties.

GRIEVANT. A person or entity seeking a structured resolution of grievance.

MEDIATION. A voluntary process in which an impartial and usually independent third party assists parties to a dispute, in reaching an acceptable resolution to the issues in the dispute. 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.

MEDIATION/ARBITRATION. A mixed approach in which parties agree to mediate their differences and submit those issues that cannot be resolved through mediation to arbitration. This technique helps to narrow the issues submitted to arbitration.

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

MEDITATION. A voluntary process in which an impartial and usually independent third party assists parties to a dispute, in reaching an acceptable resolution to the issues in the dispute. Mediation may involve meetings held by the mediator with the parties, if the parties agree to make it binding.

NEUTRAL. A term used to describe an independent third party, including a mediator or arbitrator, selected to resolve the dispute or grievance.

NON-BINDING. Techniques in 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. Refers to one of the participants in the grievance process. This includes the grievant (person or group) who brings the grievance action, the person or group against which the grievance is brought, and any party whose interests may be impaired by the disposition of the grievance.

PROCESS. This is a series of actions or operations producing a particular result.

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The documented proceedings of the planning council.

REMEDY. This is the relief or result sought by a grievant in bringing the grievance. It can include a process change or a reversal of a decision. A remedy applied prospectively.

RETROACTIVE. The extending in scope or effect to a prior time or to conditions that existed or originated in the past.

STANDING. A term referring to the eligibility of an individual to bring a grievance.

THIRD PARTY. A term used to describe an independent or impartial person, including a facilitator, mediator, ombudsman or arbitrator, selected to resolve a dispute or grievance or assist the parties in resolving a dispute or grievance.

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RECORD OF INFORMAL DISCUSSION

Date: _____

Date Discussed: _____

Name :

Denver Ryan White Title I
HIV Resources Planning Council
4130 Tejon Street, Suite A
Denver, CO 80211
(720) 855-8641

Mailing Address:

Telephone:

STATE THE PROBLEM:

RESULTS YOU ARE SEEKING:

Person Receiving Compliant:

Date

ACTION TAKEN BY PLANNING COUNCIL:

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GRIEVANCE PROCEDURE INITIAL INTAKE FORM

Date Grievance Filed: _____

Date Grievance Discussed: _____

Name of Person
Filing Grievance:

Denver Ryan White Title I
HIV Resources Planning Council
4130 Tejon Street, Suite A
Denver, CO 80211
(720) 855-8641
Fax (720) 855-8273

Mailing Address:

Telephone:

NOTE: Only deviations from the established processes, policies and procedures of the Denver EMA HIV Resources Planning Council apply.

STATE THE PROBLEM & *Include the Date of the Violation:*

Identify the process and state the name of person(s) who violated the process or policy:

RESULTS YOU ARE SEEKING:

Signature of Person Filing Grievance

Date

Person Receiving Compliant:

Date

ACTION TAKEN BY PLANNING COUNCIL:

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Request for Mediation or Arbitration

This Request is for: _____ Mediation _____ Arbitration Date: _____

Date Grievance Filed: _____ Date Grievance Discussed: _____

Name of Person
Filing Grievance:

Denver Ryan White Title I
HIV Resources Planning Council
4130 Tejon Street, Suite A
Denver, CO 80211
(720) 855-8641

Mailing Address:

Telephone:

STATE THE PROBLEM:

*Identify the process and state the name of person(s)
who violated the process or policy:*

RESULTS YOU ARE SEEKING:

Signature of Person Filing Grievance

Date

Person Receiving Compliant:

Date

ACTION TAKEN BY PLANNING COUNCIL:

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