

HIV HEALTH SERVICES PLANNING COUNCIL FOR THE SAN FRANCISCO EMA BYLAWS

ARTICLE I - NAME

Section 1. The name of this Council shall be the HIV Health Services Planning Council.

ARTICLE II - PURPOSE

The Council shall:

Section 1. Determine the size and demographics of the population of individuals with HIV disease;

Section 2. Determine the needs of such population, with particular attention to individuals with HIV disease who know their HIV status and are not receiving HIV-related services; and disparities in access and services among affected subpopulations and historically underserved communities;

Section 3. Establish priorities for the allocation of funds within the eligible area, including how best to meet each such priority and additional factors that the grantee should consider in allocating funds under a grant based on the:

- a) Size and demographics of the population of individuals with HIV disease and the needs of such population;
- b) Cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available (either demonstrated or probable);
- c) Priorities of the HIV-infected communities for whom the services are intended;

d) Availability of other governmental and non-governmental resources to cover health care costs of eligible individuals and families with HIV disease;

e) Coordination in the provision of services to such individuals with programs for HIV prevention and for the prevention and treatment of substance abuse, including programs that provide comprehensive treatment for such abuse; and

f) Capacity development needs resulting from disparities in the availability of HIV-related services in historically underserved communities.

Section 4. Develop a comprehensive plan for the organization and delivery of health and support services that:

a) Includes a strategy for identifying individuals who know their HIV status and are not receiving such services and for informing the individuals of and enabling the individuals to utilize the services, giving particular attention to eliminating disparities in access and services among affected subpopulations and historically underserved communities;

b) Includes a strategy to coordinate the provision of such services with programs for HIV prevention (including outreach and early intervention) and for the prevention and treatment of substance abuse (including programs that provide comprehensive treatment services for such abuse); and

c) Is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease;

Section 5. Assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area and, at the discretion of the planning council, assess the effectiveness of the services offered in meeting the identified

needs;

Section 6. Participate in the development of the Statewide coordinated statement of need;

Section 7. Establish and implement methods for obtaining input on community needs and priorities that may include public meetings, conducting focus groups, and convening ad-hoc panels;

Section 8. Coordinate with Federal grantees that provide HIV-related services within the eligible area.

ARTICLE III - MEMBERSHIP

Section 1. The membership shall be comprised of persons recommended by the Membership Committee and appointed by the Mayor, according to the Council's Process for the Nomination and Appointment of New Members and alternates.

Section 2. Membership shall reflect in its composition the demographics of the population of individuals with HIV disease in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations. The Membership Committee shall monitor the composition of the Council. Membership shall include representatives of:

(1) Affected communities, including individuals with HIV disease, consumers of CARE funded services and historically underserved groups and subpopulations

(2) Health care providers; including federally qualified health centers;

(3) Community-based organizations serving affected populations and AIDS/HIV service organizations;

- (4) Social service providers, including providers of housing and homeless services;
- (5) Mental health and substance abuse providers;
- (6) Local public health agencies (including San Francisco, San Mateo and Marin Counties);
- (7) Hospital planning agencies or health care planning agencies;
- (8) Non-elected community leaders;
- (9) State government (including the State Medicaid agency and the agency administering the program under Part B);
- (10) Grantees of early intervention programs;
- (11) Grantees under other Federal HIV programs, including Title III, Title IV and HOPWA and providers of HIV prevention services;
- (12) Grantees under section 2671, or, if none are operating in the area, representatives of - 2 -organizations with a history of serving children, youth, and families living with HIV and operating in the area; and
- (13) Representatives of individuals who formerly were Federal, State, or local prisoners, were released from the custody of the penal system during the preceding 3 years, and had HIV disease as of the date on which the individuals were released.

In addition to the above categories of representation, the Planning Council shall maintain as a goal for nomination to the Council the most number of HIV-positive persons as possible, always ensuring that the minimum number required by the Federal Legislation is met, where applicable. With this in mind, the Planning Council

will maintain a majority of HIV-positive members (equal to or greater than 51%) regardless of minimums outlined elsewhere.

The Planning Council will meet the minimum unaffiliated consumer representation as called for in the Federal Legislation (33%), and will hold this only as a minimum, and will make efforts to exceed it. Unaffiliated Consumers shall be consumers of Title I-funded services at the time of their appointment who are free of conflict of interest, defined as not being officers, employees, or consultants to any entity that receives Title I funds and not representing any such entity. They shall reflect the demographics of the population of individuals with HIV disease in the eligible area. For purposes of this section, an individual shall be considered to be receiving services if the individual is a parent of, or a caregiver for, a minor child who is receiving such services.

No person may substitute for a member at meetings, with the exception of the State government representative's alternate, and members who are PLWH, who may designate a proxy utilizing a process developed by the Membership Committee, and approved by the Council, who may serve for two meetings for the purpose of maintaining representation of PLWH when a member is unable to attend due to illness. An individual Council member may serve as proxy for not more than one member.

Section 3. The term of office on the Planning Council shall be two years. The size of the Planning Council shall be no more than forty (40) members.

Section 4. The Council shall elect, using a voting mechanism determined by the Council, three Co-Chairpersons who shall preside at all meetings of the Council. The Co-Chairs shall serve for a two-year term, and at least one of the elected Co-Chairs shall be a PLWH, at least one shall be a person of color, and at least one shall be a woman. The Council may designate alternate acting Co-

Chairpersons to preside over meetings during the absence of the appointed Co-Chairs.

ARTICLE IV - MEETINGS

Section 1. Quorum. A quorum of the Council must be present at any regular or specially scheduled meeting in order for the Council to engage in formal decision-making. A quorum is defined as more than one-half of the membership, excluding those members on an authorized leave of absence. In addition, at least 25% of the members present must be PLWH in order to constitute a quorum. Absentee votes shall not be permitted.

Section 2. Proceedings. Council meetings shall be open to the public. Meetings will be tape recorded, with recordings available to Council members and the public for their review. Meeting recordings will be held for a minimum of three months. Written minutes will be made available prior to the following meeting and will be a public document.

Section 3. Voting. While the Council will strive for consensus, every official act taken by the Council shall be adopted by a majority vote. A majority vote shall mean two-thirds (66%) of all members of the Council present or voting. If absent, a Council member may specify in writing (including FAX) his or her opinion on an identified agenda item. This information will be shared with the Council by Council staff, but will not be considered a vote. Council members holding proxies acting on behalf of PLWH may cast votes for the member they are representing.

Section 4. Parliamentary Procedure. The rules of parliamentary practice, as set forth in Robert's Rules of Order, shall govern all Meetings of the Council except as otherwise provided herein.

Section 5. Order of Business. The order of business of any Regular Meeting shall be as follows:

1. Roll Call
2. Approval of Agenda
3. Approval of Minutes
4. Public Comment - (additional public comment will be taken before every vote taken by the Council and at the end of every agenda item)
5. Co-chairs Report
6. Report of Committees and Task Forces
7. Consideration of Main Agenda
8. New Business
9. Adjournment

Section 6. Notice. Written notice of the time and place of every Regular, Special and Subcommittee Meeting of the Council shall be given to members of the Council and to the public at least seventy-two (72) hours before the time of such meeting.

Section 7. Regular Meetings. Regular Meetings of the Council shall be held on the fourth Monday of each month from 4:30 to 7:30 p.m. Extension of meeting times or additional meetings will be scheduled as needed. Any change in meeting schedule shall be announced at least seventy-two (72) hours in advance.

Section 8. Special Meetings. Special Meetings may be called and scheduled by the Co-Chairpersons or by six or more members. The agenda, place, and time of such Meetings shall be set forth in the Meeting notice, at least seventy-two (72) hours before the time of such meeting.

Section 9. Committee Meetings. Committee meetings of the Council shall be set forth in the Meeting notice. The Committees shall be designated by vote of the membership.

Section 10. Sunshine Ordinance. All Council meeting procedures are conducted in accordance with the San Francisco Sunshine Ordinance.

ARTICLE V - LEAVE OF ABSENCE

Section 1. The Leave of Absence Policy for Council Members shall be established by Membership Committee and duly approved by the full council, to define the policy and procedures regarding a leave of absence from Council duties. This policy shall include the procedure for requesting a leave of absence, maximum duration and circumstances under which a leave may be granted, and any limitations on number of leaves allowed within a twelve (12) month period.

ARTICLE VI - MEETING ATTENDANCE / TERMINATION

Section 1. Membership committee policy shall establish minimum attendance requirements for Council members. Members not meeting minimum attendance requirements can be placed either on probation or terminated from the Council in accordance with the rules defined in Membership committee policies that have been duly approved by the full council. Probation is defined as suspension of voting privileges, and the member is not counted toward quorum at either full council or home committee meetings. When a vote is required for removal of a Council member, the final decision shall be made by the full Council. Policies concerning probation or dismissal must have a process for appeal by the affected council member.

Section 2. Council Members shall be entitled to one absence that is excused per quarter for illness or previously scheduled vacation.

Excused absences shall be determined by policies established by the Council.

Section 3. In consideration of the need for representation of persons with HIV, those individuals shall be exempt from the above termination clause for absences due to illness.

Section 4. The Council member shall be terminated by the Mayor upon recommendation of the Council, and upon recommendation of the Membership Committee, the Mayor shall re-appoint a new Council member to fill the vacancy.

ARTICLE VII - GRIEVANCES AND APPEALS

It shall be the policy of the Planning Council to attempt to resolve grievances regarding Council decisions through informal dispute mechanisms, including appropriate use of Council subcommittees and facilitated mediation. To assist in the understanding of the basis for Council and grantee actions, written documentation regarding the Council's and the grantee's procedures, particularly those related to the prioritization of services, allocation of funds, and vendor selection, shall be provided as part of the Council's informal dispute mechanism.

Persons or agencies must submit an appeal request in writing to the Co-Chairs. Decisions subject to grievance shall include the needs assessment process; comprehensive planning process; priority setting process; and, process for the allocation of funds to service categories. This appeal must meet the following criteria:

A. The appeal request must be received in writing within ten (10) business days of a Planning Council decision;

B. The appeal request must specify the reasons for an appeal. Available supporting documentation regarding an alleged violation of the Council's process must be included;

C. Appeals of probation or defunding shall be governed by the provisions of Attachment “B”, Probationary/Defunding process for CARE-funded Health Services Programs.

The Co-Chairs shall review the request for appeal of a Council decision and shall determine within fifteen (15) days if a basis for appeal exists. If a basis for appeal is found to exist the matter shall be referred to the appropriate committee as designated in the Policies and Procedures Manual for informal dispute resolution or fact-finding, hearing and decision-making. If no basis for appeal is determined, the appealing party may request reconsideration of the Co-Chairs decision by the full Planning Council. The decision of the Planning Council shall be final, except for grievances related to funding.

After a finding that the basis for appeal exists, the Evaluation Committee shall within thirty (30) days meet to conduct informal dispute resolution, including facilitated mediation, fact-finding, hearing and decision-making. Representatives of the appealing party shall be consulted, and shall have the opportunity to address the Evaluation Committee, in addition to other parties as deemed appropriate by the Evaluation Committee. The Evaluation Committee shall issue a written recommendation to the full Council regarding the appeal within sixty (60) days after referral to the committee.

Appeal determinations shall be forwarded to the Planning Council for approval, modification, or referral to committee. The Council shall act upon the committee’s recommendation within thirty (30) days of receipt of the written recommendation. The decision of the planning Council shall be final and not subject to further appeal, except for grievances related to funding which shall be governed by the following provisions.

Following the exhaustion of the procedures described above,

including informal dispute resolution, consideration and action by the Evaluation Committee, and consideration and action by the Planning Council, grievances may be submitted for arbitration as described herein. Requests for submittal to arbitration must be received by the Co-Chairs in writing within ten (10) days of final Council action. The Co-Chairs shall request the Director of Health in San Francisco, Marin, and San Mateo to each appoint a neutral individual, knowledgeable of health services for person with HIV and familiar with the procedures and requirements of the Ryan White CARE Act, to serve on an arbitration panel to hear the grievance. A neutral party shall be defined as an individual who is not a member of the Council, employee of the grantee, or employee or board member of an agency affected by the action subject to arbitration. The arbitration panel shall convene within thirty (30) days of the written request for arbitration.

The arbitration panel shall have the authority to determine whether (1) the Planning Council has acted outside the scope of its jurisdiction, such as taking actions not authorized under the Ryan White CARE Act, Council Bylaws, or Council policies and procedures; (2) there was a fair consideration of the grievance through the Council's Grievance and Appeals Process; and (3) there was abuse of discretion. An abuse of discretion is established if (a) the grieving party demonstrates that the Council or grantee has proceeded in a manner that violates the Ryan White CARE Act, the Council's Bylaws, or established Council policies and procedures; (b) the Council failed to articulate the reason for its decision; or (c) there were no facts presented to the Council which would reasonably support its decision.

The arbitration panel shall select a chair, who shall schedule a hearing as soon as practicable. The chair shall receive all communications from the grieving party and the Council and shall, after communicating with the other panel members and determining that at least two panel members agree as to any

decision, make decisions in response to issues raised by the parties in connection with the arbitration. The arbitration panel shall submit its decision in writing to the Council within sixty (60) days of the written request for arbitration. The decision of the arbitration panel shall be final and binding.

If the arbitration panel determines 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. The decision of the arbitration panel shall not limit or control in any way the discretion legally vested in the Council or Grantee.

ARTICLE VIII - PERSONAL LIABILITY

The members of the HIV Health Services Planning Council shall not be personally liable for any debt, liability or obligation of the Council. All persons, corporations or other entities extending credit to, contracting with or having any claim against the Council may look only to the funds and property of the council for payments of any such contract or claim, or for payment of any debt, damages, judgment or decree, or of any money that may otherwise become due or payable to them from the Council.

ARTICLE IX - CONFLICT OF INTEREST

The Council, and its Director, shall be governed by the requirements for the reporting of economic interests established by the California Fair Political Practices Commission, pursuant to California Government Code Section 87100 et seq., including the filing of annual statements of economic interest. In addition, pursuant to Section 2602(b) of the Ryan White CARE Act of 1996, the Council, its members, or its Director may not be directly

involved in the administration of the Title I grant; may not designate particular entities as recipients of any amounts of Title I funding; and, individuals serving on the Planning Council, or its Director, who have a financial interest, as defined in Government Code Section 87100 et seq., or are members of a public or private entity seeking Title I funding, will not participate directly or in an advisory capacity, in the process of selecting entities to receive Title I funding within that particular service category.

In order to avoid the appearance of conflict of interest in the course of Council meetings or activities, Council members shall sign a written statement agreeing to voluntarily disclose any interests in a transaction or decision where the member; member's family, including domestic partners; employer; or business affiliation, including board membership, will receive a benefit or gain. Council members should provide open disclosure and description of potential conflicts, and abstain from voting in the event of an actual conflict as determined by the Council.

ARTICLE X - REPRESENTATION OF THE COUNCIL

Whenever a Council member communicates with the news media, or appears at a public meeting or before another City Department to discuss existing or proposed Council policy, the Council member will make every reasonable effort to explain to the Council's audience whether the Council member is expressing an opinion, view or position that is the individual Council member's or a view, position or opinion of the Council as a whole.

Whenever the Council learns that a view, position or opinion of the Council as a whole has been misinterpreted or misrepresented in the media, or at a public meeting, the Council, through the Co-chairs or the Co-chairs' appointed representative, shall make every reasonable effort to promptly clarify the Council's true position as soon as practicable, and within a period not to exceed 45 days

ARTICLE XI - AMENDMENTS

Section 1. These Bylaws may be amended by the Council at any Regular Meeting by a majority (two-thirds) vote, following thirty (30) days notice of any proposed changes.

Revised: 6/24/02 Print date: 4/13/06 2:01 PM Draft changes:
5/05/04 Revision Approved: 6/28/04 Proposed Changes:
11/15/04 Revision Approved: 1/24/05 Revision Approved:
10/23/06 (Article VI, Section 1, Meeting Attendance/Termination)