

SB7 Grant Dispute Resolution Policy

This Dispute Resolution Policy begins with, and centers around, the notion that informal action—including opportunities for conversations among all relevant parties, mediation or ombudsman services, and similar devices—should form the core of a resolution process. Still, SB7 (Organization) is aware that some disputes may arise, especially in post-award cases involving contested issues with substantial funds at stake, in which a more formal Organization review should be made available.

Recommendation

I. Scope and Intent of the Dispute Resolution Policy

This Dispute Resolution Policy concerns procedures for disputes involving “grantees” and “vested applicants.” A “grantee” may be a non-profit or community service organization, a school, corporation, or an individual who has executed a grant application or agreement or cooperative agreement with The Organization. A “vested applicant” is one who is entitled by SB7 By Laws to receive funds, provided the applicant meets certain minimal requirements; or one who applies for a noncompetitive continuation grant. These policies apply only to grant programs carried on primarily within the State of Maryland.

II. Complaints by Grantees and Vested Applicants

A. Initiation Process

1. Any request for review shall be initiated with the filing of a Dispute Form to grants@sb7coalition.org, addressed to Executive Director, General Manager, and Board Chair, accompanied by all necessary supporting documents including, but not limited to:
 - a. Grant Application
 - b. Grant Agreement
 - c. Partners Involved

B. Informal Review and Dispute Resolution Procedures

1. The Organization will provide informal procedures under which SB7 may attempt to review and resolve complaints by grantees and vested applicants without resort to formal, adjudicatory procedures. The informal procedures could take several forms, including, for example, advance notice of adverse action and the reasons for the action, opportunity to meet with staff or individuals involved in the dispute, informal review by another or higher-level Organization official, or use of an ombudsman or mediator. Attempts to resolve disputes under these informal procedures should be pursued expeditiously by the Organization within a definite time frame. Notwithstanding these time limits, a complainant’s invocation of more formal appeal procedures does not preclude further efforts to settle, mediate, or otherwise resolve the dispute informally.

2. The existence of informal review procedures should be made known to affected grantees and vested applicants in the manner described in paragraphs 3 and 12, below. SB7 should encourage their program and decisional officials to resolve grievances informally and provide training to improve their abilities to do so. In undertaking the provision of such training, SB7 should work with organizations and existing groups with expertise in these methods of dispute resolution.

C. Notice of Organization's Action

3. Upon issuance of an SB7 action which (if not appealed) represents a final Organization action, SB7 shall provide prompt notice of its action to the affected grantee or vested applicant. If the action is averse to a grantee or vested applicant, the Organization's notice, at a minimum, will provide a brief statement of the legal or factual basis for the action; state the nature of any sanctions to be imposed; and describe any available appeal procedures, including applicable deadlines and the name and address of the Organization official to be contacted in the initial stages of an appeal.

D. Administrative Appeal Procedures

4. SB7 should provide the additional opportunity for some type of administrative appeal in at least certain kinds of grant-related disputes. Requesting an appeal may be conducted orally or in writing, depending on the nature of the dispute. In determining whether an administrative appeal should be afforded and the form of any such appeal for particular classes of disputes, SB7 should consider the probable impact of the adverse action on the complainant, the importance of procedural safeguards to accurate decision making in each class of dispute, the probable nature and complexity of the factual and legal issues, the financial and administrative burden that would be imposed upon the Organization, the need for a perception of the Organization's fairness in dealing with grantees and vested applicants, and the usefulness of appeal procedures to give feedback on administrative problems.

5. Considering the factors described in paragraph 4, SB7 will provide the opportunity for some kind of administrative appeal with regard to adverse actions involving:

- a. The performance of an existing grant, including disputes involving debarment, termination, suspension, or voiding of a grant agreement, cost disallowances, denials of cost authorizations, and cost rate determinations.
- b. The denial of funding to applicants for entitlement grants (micro capacity building grants), including disputes involving the applicant's eligibility, amount of funding to be received, and application of award criteria or pre-established review procedures; and
- c. The denial of applications for noncompetitive continuation (grants not completed within a set time period stated in grant agreement) awards where the denial is for failure to comply with the terms of a current or previous award.

6. Where an opportunity for an administrative appeal is afforded, SB7 will take into account the factors set forth in paragraph 4 and select from among the following forms of proceedings to provide the one most appropriate to the particular case:

- a. Decision based on written submissions only.
- b. Decision based on oral presentations.
- c. Decision on written submissions plus an informal conference or oral presentation; or
- d. Full evidentiary hearing.

Where a hearing or conference is useful to resolve certain issues, the Organization may limit the hearing to those issues and treat remaining questions less formally.

7. At a minimum, these administrative appeal procedures should afford grantees and vested applicants the following:

- a. Written notice of the adverse decision (see paragraphs 3 and 12);
- b. An impartial decision maker (for instance, a grant appeals board member, a high-level Organization official, a person from outside the Organization, an administrative law judge, or certain other individuals from outside the Appropriation Committee), with authority to conduct the proceedings in a timely and orderly fashion.
- c. Opportunity for the Organization, complainant, and any other parties to the appeal promptly to obtain information from each other, and to present and rebut significant evidence and arguments.
- d. Development of a record sufficient to reflect accurately all significant factual submissions to the decision maker and provide a basis for a fair decision; and
- e. Prompt issuance of a written decision stating briefly the underlying factual and legal basis.

8. SB7 will determine in advance, and specify by rule or order, the scope of the authority delegated to the decision maker in administrative appeals. For example, The Organization should specify in advance whether the decisionmaker has the authority to review the validity of The Organization rules/ regulations or the consistency of The Organization actions with governing rules.

9. SB7 should accord finality to the appeal decision, unless further review is conducted promptly pursuant to narrowly drawn exceptions and in accordance with pre-established procedures, criteria, and standards of review. If the decision maker is delegated authority to review the validity of the Organization rules/ regulations, the Organization's Chair should retain an option for prompt final review of the decision in accordance with applicable procedures.

10. Once these administrative appeal procedures are invoked, all ex parte communications between involved parties and decision-maker regarding this matter are prohibited unless all involved parties give written consent. Any ex parte communications that do occur should be disclosed promptly and placed in the appeal record.

11. The Organization should encourage prompt decision of appeals by creating time limits or other guidelines for processing grant disputes and should pay particular attention to resolving appeals over decisions regarding renewal and continuation grants in a timely manner. These timetables might be fixed generically or in accordance with the complexity of particular cases. Decisionmakers' compliance should be monitored by the Organization pursuant to a regular caseload management system.

E. Public Notice

12. SB7 should give advance notice and afford an opportunity for public comment in developing informal review and administrative appeal procedures. The Organization should ensure that available procedures are made known to grantees and vested applicants. Notice of such procedures should be published in the Grant Manual, and included in grant agreements and other appropriate documents, in addition to the individual notice described in paragraph 3.

13. The Organization should collect in a central location, and index, those written decisions made in administrative appeals. These decisions should be made available to the public except to the extent that their disclosure is prohibited by law. Whenever a grantee or vested applicant cites a previous written decision as a precedent for the Organization to follow in its case, the Organization should either do so, distinguish the two cases, or explain its reasons for not following the prior decision.

The proposed recommendations were adapted from:

47 FR 30704 (July 15, 1982)

1982 ACUS 9 (vol 1)

Citation:

Steinberg, Ann. Federal Grant Dispute Resolution. 1982 ACUS 137 (Vol. 1) and reprinted at Chapter 54 *in*: Stein, Jacob A., Glenn A. Mitchell, and Basil J. Mezines. Administrative Law. New York: Matthew Bender.

Glossary

Decisionmaker: Working committee of three to four board members or alternates with no conflict of interest as it relates to said dispute.

Entitlement Grants: Authorized community organization grants (micro grants).

Ex Parte Communications: Communicating with the Decisionmaker without all parties presented.

Noncompetitive Continuation Grant: Grants not completed within a set time period stated in grant agreement