IPS 1-12 Volunteer/Trainee Sexual Misconduct

**Effective Date:** July 1, 2013  
**Responsible Offices:** Office of the General Counsel, Office of Global Operations, Office of Health Services, and Office of Victim Advocacy  
**New Interim Policy Statement**

Issuance Memo (July 1, 2013)

IPS 1-12 Procedures For Handling Complaints of Volunteer/Trainee Sexual Misconduct

IPS 1-12 Frequently Asked Questions for Country Directors

IPS 1-12 Frequently Asked Questions for Volunteers/Trainees

Attachment A - Limited Waiver of Confidentiality

---

1.0 Authority


2.0 Purpose

(a) This policy covers Sexual Misconduct (as defined in paragraph 3.0 below) by Volunteers and Trainees. Sexual Misconduct comprises a broad range of behavior that will not be tolerated in the Peace Corps. The Peace Corps is committed to providing an environment free from Sexual Misconduct.

(b) The procedures for handling complaints of Sexual Misconduct by Volunteers or Trainees are set out in the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct. Those procedures are designed to promote prompt reporting of all types of Sexual Misconduct by Volunteers and Trainees and to provide for a timely and fair resolution of Sexual Misconduct complaints.

3.0 Definitions

For purposes of this policy:

(a) “Effective Consent” means words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon activity. Effective Consent cannot be gained by Force, by ignoring or acting in spite of the objections of another (unless those
objections have been knowingly and voluntarily withdrawn) or by taking advantage of
the Incapacitation of another if the accused knows, or a sober, reasonable person in
position of the accused should have known, of such Incapacitation. Effective Consent is
also absent when the activity in question exceeds the scope of Effective Consent
previously given or when Effective Consent previously given for the activity in question
has been withdrawn.

(b) “Force” means violence, physical force, threat, intimidation or coercion.

c) “Incapacitation” and “Incapacitated” mean the physical or mental inability to make
informed, rational judgments. States of Incapacitation include, without limitation, sleep
and blackouts. If alcohol or drug use is involved, a person does not have to be
intoxicated or drunk to be considered Incapacitated. Rather, Incapacitation is determined
by how the alcohol or drug consumed impacts a person's decision-making capacity,
awareness of consequences and ability to make informed judgments. Because
Incapacitation may be difficult to discern, Volunteers and Trainees are strongly
encouraged, when in doubt, to assume that another person is Incapacitated and therefore
unable to give Effective Consent. Being intoxicated, drunk or under the influence of
drugs is not a defense to a complaint of Sexual Misconduct under this policy.

d) “Non-Consensual Sexual Activity” means (i) any penetration or attempted penetration of
the vagina or anus by a penis, tongue, finger or inanimate object that occurs without
Effective Consent, or (ii) any contact between the mouth of one person and the genitals or
anus of another person that occurs without Effective Consent.

e) “Non-Consensual Sexual Contact” means the (i) deliberate touching of a person's
genitalia, anus, groin, breast, inner thigh or buttocks (“intimate parts”), or clothing
covering a person’s intimate parts, that occurs without Effective Consent, or (ii) the use
of Force to cause a person to touch his or her own or another person's intimate parts.

(f) “Sexual Exploitation” means taking sexual advantage of another person without Effective
Consent, including, without limitation, (i) causing or attempting to cause the
Incapacitation of another person in order to gain a sexual advantage over such other
person, (ii) causing the prostitution of another person, (iii) recording, photographing or
transmitting identifiable images of private sexual activity or the intimate parts of another
person, (iv) allowing third parties to observe private sexual acts, (v) engaging in
voyeurism, or (vi) knowingly or recklessly exposing another person to a significant risk
of sexually transmitted infection, including HIV.

(g) “Sexual Harassment” means offensive conduct which (i) either is of a sexual nature or
relates to sex, sexual orientation, gender identity or gender expression and (ii) constitutes
prohibited harassment under MS 645 Prevention and Elimination of Harassment, Including Sexual Harassment.

(h) “Sexual Misconduct” means Non-Consensual Sexual Activity, Non-Consensual Sexual Contact, Sexual Exploitation, Sexual Harassment or Stalking. Sexual Misconduct can occur between strangers or acquaintances (including people involved in an intimate or sexual relationship and people related by blood or marriage). Sexual Misconduct can be committed by men or by women and it can occur between people of the same sex or of different sexes.

(i) “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for his or her safety or the safety of others or (ii) suffer substantial emotional distress.

(j) “V/T” means Volunteer or Trainee.

4.0 Sexual Misconduct Policy

Sexual Misconduct by a V/T violates Peace Corps policy. A V/T who is found to have engaged in Sexual Misconduct may be subject to disciplinary action up to and including administrative separation.

5.0 Complaints of Sexual Misconduct

5.1 Procedures for Handling Complaints by V/Ts

(a) Any current or former V/T who was serving as a V/T at the time of the Sexual Misconduct may bring a complaint of Sexual Misconduct against another V/T who was serving as a V/T at the time of the Sexual Misconduct and continues to be serving as a V/T at the time the complaint is brought. Any such complaint of Sexual Misconduct brought by a current or former V/T against another V/T shall be handled in accordance with the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct.

(b) So long as the accused continues to serve as a V/T, there is no time limit for the bringing of a complaint of Sexual Misconduct. Nevertheless, V/Ts are encouraged to report Sexual Misconduct immediately in order to maximize the Peace Corps’ ability to obtain evidence and conduct a thorough, impartial and reliable investigation. Failure to promptly report Sexual Misconduct may result in the loss of relevant evidence and witness testimony and may impair the Peace Corps’ ability to enforce this policy.
(c) An accused V/T is presumed not to have engaged in Sexual Misconduct until found otherwise in accordance with the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct.

5.2 Procedures for Handling Complaints by Non-V/Ts

Any other complaint of Sexual Misconduct brought against a V/T (including a complaint brought by a Peace Corps staff member) shall be handled in accordance with MS 204 Volunteer Conduct, and MS 284 Early Termination of Service, and reported to the Office of Inspector General (OIG) to the extent required by MS 861 Office of Inspector General.

5.3 No Retaliation

(a) It is a violation of Peace Corps policy for any V/T or staff member to:

(i) retaliate against any V/T bringing a complaint of Sexual Misconduct;
(ii) retaliate against any other person cooperating in the investigation of, or testifying as a witness to, any allegation of Sexual Misconduct; or
(iii) retaliate against any V/T accused of Sexual Misconduct.

For purposes of this policy, the terms “retaliate” and “retaliation” include intimidation, threats, harassment, unwarranted invasion of privacy or other adverse action threatened or taken against any such V/T or other person. However, the terms “retaliate” and “retaliation” do not include action taken in accordance with this policy and the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct against a V/T who is found to have engaged in Sexual Misconduct or otherwise violated this policy or the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct. Retaliation may result in disciplinary action independent of any disciplinary action taken in response to the underlying allegations of Sexual Misconduct.

(b) Nothing in this policy shall preclude the Peace Corps from taking appropriate disciplinary action against a V/T who makes a false accusation or provides false information under this policy with the knowledge that it was false or with willful disregard for its truth or falsity. However, the absence of a finding under this policy that a V/T engaged in Sexual Misconduct does not by itself mean that the V/T who brought the complaint made a false accusation or provided false information.

(c) In accordance with, and subject to the terms of, MS 240 Immunity from Disciplinary Action in Sexual Assault Incidents, the Peace Corps will provide the victim of a sexual assault, as well as any witness who provides information or assistance in relation to the sexual assault of a V/T, with immunity for policy violations related to the incident.
5.4 Criminal and Other Investigations

(a) Sexual Misconduct may violate both Peace Corps policy and criminal and other laws of the U.S. or the local jurisdiction in which the Sexual Misconduct took place. The bringing of a complaint of Sexual Misconduct and the handling of such complaint under the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct are independent of any criminal investigation or proceeding or any complaint brought under MS 293 Applicant, Trainee, Volunteer Discrimination Complaint Procedure.

(b) A V/T is entitled to report Sexual Misconduct directly to OIG, to the Office of Civil Rights and Diversity (OCRD) and to relevant law enforcement agencies regardless of whether that V/T has brought a complaint of Sexual Misconduct under this policy.

(c) Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this policy, criminal investigations or reports are not determinative of whether Sexual Misconduct has occurred for purposes of this policy. Conduct may constitute Sexual Misconduct under this policy even if OIG, law enforcement agencies or other relevant authorities lack sufficient evidence of a crime and therefore do not move forward with a criminal prosecution or there is an acquittal of the accused in criminal proceedings.

(d) No failure of the Peace Corps to follow any of the procedures contained in the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct will be a defense to a criminal prosecution.

6.0 Effective Date

(a) The effective date of this policy is the date of issuance.

(b) When the policy on restricted and unrestricted reporting of sexual assaults is adopted and when the policy on Sexual Assault Response Liaisons is adopted, the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct will be revised to take account of each of those policies.

(c) The Office of Victim Advocacy, the Office of Global Operations and the Office of the General Counsel will put in place mechanisms to monitor and evaluate the effectiveness of the IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct. The Senior Policy Committee will review those procedures after 12 months to determine whether they should be revised or replaced.