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

Effective Date: July 1, 2013

IPS 1-12 Volunteer/Trainee Sexual Misconduct

Attachment A - Limited Waiver of Confidentiality

1.0 Applicability and Definitions

1.1 Applicability

(a) These procedures are to be used whenever a V/T brings a complaint of Sexual Misconduct against another V/T.

(b) These procedures are intended primarily for use with complaints brought by victims of Sexual Misconduct. If an allegation of Sexual Misconduct is received from a V/T who has been a witness to Sexual Misconduct but is not the victim, these procedures may be adapted and used to the extent appropriate in the circumstances.

1.2 Definitions

For purposes of these procedures:

(a) The terms defined in IPS 1-12, Volunteer/Trainee Sexual Misconduct, have the same meanings when used in these procedures.

(b) “Hearing Panel” means, for each region, a standing panel of three members (at least two of whom shall be returned Peace Corps volunteers) selected by the Regional Director from a group of Peace Corps headquarters staff who have received specialized training in the handling of complaints of Sexual Misconduct and in sexual assault awareness and victim sensitivity. Training of Hearing Panel members shall be coordinated by the Office of the General Counsel (OGC). The composition of the Hearing Panel in a particular case may be subject to change in accordance with Section 5.1(b) below.

(c) References to “days” mean calendar days.

(d) Any deadlines for action specified in these procedures may be extended in the sole discretion of the Regional Director.
2.0 Initial Meeting with the Complainant

2.1 Explanation of Procedures

(a) Upon receipt of any complaint of Sexual Misconduct, the Country Director shall, in addition to taking all actions required under the *Guidelines for Responding to Rape and Sexual Assault* (including filing a CIRS report within three business days), immediately hold an initial meeting with the complainant.

(b) At the outset, the Country Director shall give copies of IPS 1-12, Volunteer/Trainee Sexual Misconduct, and these procedures to the complainant and provide the complainant with a general explanation of these procedures (and, in appropriate cases, IPS 1-11, Immunity from Peace Corps Disciplinary Action for Victims of Sexual Assault). The Country Director shall inform the complainant that the complainant may contact OIG and the OCRD directly and provide the complainant with contact information for OIG and OCRD.

(c) The Country Director shall:

(i) inform the complainant that, regardless of whether the complainant wishes to proceed with a resolution of the complaint or requests that the complaint remain confidential, the identity of the complainant and information regarding the complaint will have to be disclosed to:

   (A) OIG (which may then choose to investigate the complaint on its own initiative); and

   (B) to the extent they have a specific need to know in order to carry out their responsibilities under these procedures, the Regional Director and individual staff members within the Office of Safety and Security, the Counseling and Outreach Unit and OGC;

(ii) explain to the complainant that, if the complainant wishes to proceed with a resolution of the complaint in accordance with these procedures, the complainant will be required to sign a limited waiver of confidentiality in the form of Attachment A to these procedures;

(iii) inform the complainant that, if the complainant does not wish to proceed with a resolution of the complaint in accordance with these procedures, the Peace Corps’ ability to take action against the accused V/T will be limited;

(iv) discuss with the complainant any interim measures that may be appropriate to protect the privacy or safety of the complainant or to ensure that the complainant is free from any form of retaliation for making the complaint; and

(v) seek to determine how the complainant wishes to proceed, including whether the complainant wishes to proceed with a resolution of the complaint in accordance with these procedures or requests that the complaint remain confidential.
Before the complainant decides whether to proceed with a resolution of the complaint, the complainant shall be given an opportunity, at the option of the complainant, to consult with a representative of the Office of Victim Advocacy.

2.2 **Complainant Wishes to Proceed with Resolution of Complaint**

(a) If the complainant wishes to proceed with a resolution of the complaint, the Country Director shall request the complainant to sign a limited waiver of confidentiality in the form of Attachment A to these procedures.

(b) After the complainant signs such waiver, the Country Director shall, to the extent that the complainant has not already provided such information, determine from the complainant the name of the accused V/T and the date, location and general nature of the Sexual Misconduct. The Country Director shall promptly:

(i) provide to OIG the name and contact information (including telephone number and email address) of the complainant, the name of the accused V/T and the date, location and general nature of the Sexual Misconduct;

(ii) notify OIG that the complainant wishes to proceed with a resolution of the complaint; and

(iii) request OIG to conduct an investigation of the complaint.

(c) The Country Director may provide any information received from the complainant to the Regional Director and individual staff members within the Office of Safety and Security, the Counseling and Outreach Unit and OGC to the extent they have a specific need to know in order to carry out their responsibilities under these procedures.

2.3 **Complainant Does Not Wish to Proceed with Resolution of Complaint**

(a) If the complainant does not wish to proceed with a resolution of the complaint, the Country Director shall promptly:

(i) provide to OIG the name of the complainant and, to the extent that the complainant has provided such information to the Country Director, the name of the accused V/T and the date, location and general nature of the Sexual Misconduct; and

(ii) notify OIG that the complainant does not wish to proceed with a resolution of the complaint.

(b) Even though the complainant does not wish to proceed with a resolution of the complaint or if at any time the complainant withdraws from the process of resolving the complaint under these procedures, the Country Director may, with the concurrence of the Regional Director and in consultation with OGC, take reasonable disciplinary or other action in


accordance with the provisions set out in the Peace Corps Manual, including MS 204, Volunteer Conduct, and MS 284, Early Termination of Service, in response to any OIG investigation or any information provided by the complainant about Sexual Misconduct, as follows:

(i) The accused V/T has the right to receive information about, and respond to, the allegations before the Country Director takes disciplinary or other action with respect to the allegations. Therefore, the Country Director may take action only if the complainant has agreed to waive the confidentiality of the complaint or the Country Director determines that there are exceptional circumstances that require the Country Director to take action notwithstanding the request of the complainant for confidentiality. The Country Director shall inform the complainant if confidentiality cannot be maintained.

(ii) The Country Director may take action to terminate the service of the accused V/T only in exceptional circumstances.

(iii) In determining whether the circumstances are exceptional, the Country Director may take into consideration the seriousness of the Sexual Misconduct and whether there have been other complaints of Sexual Misconduct against the accused V/T.

(c) Nothing in these procedures precludes OIG from investigating a complaint of Sexual Misconduct on its own initiative.

(d) Nothing in these procedures prevents the Country Director from taking appropriate disciplinary or other action in accordance with the provisions set out in the Peace Corps Manual, including MS 204, Volunteer Conduct, and MS 284, Early Termination of Service, if the accused V/T admits to all of the essential elements of Sexual Misconduct (including, in the case of Non-consensual Sexual Activity, Non-consensual Sexual Contact or Sexual Exploitation, the absence of Effective Consent) even if the complainant does not wish to proceed with a resolution of the complaint.

3.0 Interim Measures

3.1 Purpose and Nature

(a) Regardless of whether the complainant wishes to proceed with a resolution of the complaint, the Country Director shall take such prompt and effective interim measures as are reasonably practicable under the circumstances to protect the privacy and safety of the complainant and the accused V/T and to ensure that the complainant and the accused V/T are free from any form of retaliation.
(b) In deciding on such interim measures, the Country Director shall consult with OIG, the Office of Victim Advocacy, the Regional Director, the Office of Safety and Security, the Counseling and Outreach Unit and OGC and take into account any request by the complainant to maintain the confidentiality of the complaint.

(c) Subject to Section 3.1(d) below, interim measures may include, without limitation:

(i) measures to physically separate the complainant and the accused V/T, such as through changes in the site, the work assignment or the housing arrangements of the complainant or the accused V/T; and

(ii) imposition of a “no contact” order under which the complainant and the accused V/T are required to stay away from one another and refrain from having any form of contact with one another, directly or through proxies, whether in person, in writing or via electronic means.

(d) When taking interim measures, the Country Director shall seek to minimize unnecessary or unreasonable burdens on either party; provided, however, that the Country Director shall make every reasonable effort to avoid changes to the site, the work assignment or the housing arrangements of the complainant.

(e) The Country Director shall inform the complainant and the accused V/T of any interim measures taken by the Country Director. Prior to informing the accused V/T of the interim measures, the Country Director shall consult with OIG for the purpose of determining what information regarding the complaint can be provided to the accused V/T pending completion of the investigation by OIG.

3.2 Option of Administrative Hold

If necessary to protect the privacy or safety of the complainant or the accused V/T or to ensure that the complainant and the accused V/T are free from any form of retaliation, the Country Director may, subject to Section 3.1(d) above, request the Regional Director to authorize the accused V/T to be placed on administrative hold and sent back to the home of record pursuant to paragraph 8.2 of MS 220, Leave for Volunteers/Trainees, pending resolution of the complaint.

3.3 Violation of No Contact Order or Other Directive

Any V/T who is found to have violated any “no contact” order or other directive imposed by the Country Director under these procedures may be subject to additional disciplinary action up to and including administrative separation.

4.0 Investigation and Referral to Hearing Panel

4.1 Timing of Investigation
(a) Following a request by the Country Director to OIG pursuant to Section 2.2(b)(iii) above, OIG shall review the information provided by the Country Director, decide whether it will investigate the complaint and promptly notify the Country Director of its decision. If OIG notifies the Country Director that it has decided not to investigate the complaint or if OIG does not notify the Country Director within 48 hours (excluding weekends and holidays) that it has decided to investigate the complaint, the Country Director shall request OCRD to arrange for an investigation of the complaint to be carried out. In that case, any references in Section 4.0 or 6.0 to an investigation by OIG shall instead refer to the investigation arranged by OCRD.

(b) OIG shall determine the nature and scope of its investigation based on the facts of the case as they develop.

(c) OIG shall make every reasonable effort to complete its investigation of the complaint within 10 days after a request by the Country Director pursuant to Section 4.1(a) above and issue its summary report of investigation, including statements of witnesses, as expeditiously as possible thereafter. OIG may extend this period for good cause.

4.2 Admission by Accused V/T

If, at any time, OIG notifies the Country Director that the accused V/T has admitted to all of the essential elements of Sexual Misconduct (including, in the case of Non-consensual Sexual Activity, Non-consensual Sexual Contact or Sexual Exploitation, the absence of Effective Consent), the Country Director may take appropriate disciplinary or other action in accordance with the provisions set out in the Peace Corps Manual, including MS 204, Volunteer Conduct, and MS 284, Early Termination of Service, without the need to refer the complaint to the region’s Hearing Panel. Prior to deciding on such action, the Country Director may seek and take into consideration the views of the complainant.

4.3 Criminal Prosecution

(a) If OIG notifies the Country Director that the relevant authorities are moving forward with a criminal prosecution in the United States, the accused V/T shall, after consultation between the Country Director and OIG, be separated with interrupted service status in accordance with paragraph 5.0 of MS 284, Early Termination of Service.

(b) Nothing in these procedures prevents OIG or other relevant authorities from using information obtained by OIG during its investigation of a complaint for purposes of a criminal prosecution.

4.4 Referral to Hearing Panel

(a) If OIG notifies the Country Director that:
(i) the accused V/T has denied one or more of the essential elements of Sexual Misconduct; and

(ii) OIG does not intend to pursue a criminal prosecution in the United States or the relevant authorities have declined to move forward with a criminal prosecution in the United States;

the Country Director shall promptly refer the complaint to the region’s Hearing Panel for resolution. No complaint may be referred to a Hearing Panel for resolution until OIG confirms that it does not intend to pursue a criminal prosecution in the United States or that the relevant authorities have declined to move forward with a criminal prosecution in the United States.

(b) OIG should notify the Country Director of these matters as soon as possible after its investigation is completed and should not wait until its report of investigation is completed. Similarly, the Country Director should not wait for receipt of OIG’s report of investigation before referring the complaint to the Hearing Panel.

(c) In appropriate cases, the Regional Director may determine, in consultation with OGC, that the Regional Director or the region’s Chief of Operations should take the place of the Hearing Panel. The Regional Director may only make such a determination if the Regional Director or the region’s Chief of Operations, as the case may be, has received the same specialized training in the handling of complaints of Sexual Misconduct and in sexual assault awareness and victim sensitivity as is received by members of the Hearing Panel. If the Regional Director makes such a determination:

(i) any references in the remaining provisions of these procedures to the Hearing Panel or to the chair or another member of the Hearing Panel shall instead refer to the Regional Director or the region’s Chief of Operations, as the case may be; and

(ii) any finding by the Regional Director in place of the Hearing Panel under Section 6.3 or 6.4 below or any report issued by the Regional Director in place of the Hearing Panel under Section 8.4 below shall constitute the decision of the Regional Director under Section 8.5 below and shall be subject to appeal in accordance with Section 9.0 below.

4.5 Notice to Complainant

As soon as possible but in any event within five days after the complaint is referred to the Hearing Panel, the Country Director shall notify the complainant of such referral, along with the identities of the members of the Hearing Panel.
**4.6 Initial Meeting with Accused V/T**

(a) The Country Director shall, as soon as possible but in any event within five days after the complaint is referred to the Hearing Panel, hold an initial meeting with the accused V/T. During that meeting, the Country Director shall:

(i) notify the accused V/T of such referral, along with the identities of the members of the Hearing Panel;

(ii) give copies of IPS 1-12, Volunteer/Trainee Sexual Misconduct, and these procedures to the accused V/T and provide to the accused V/T a general explanation of these procedures;

(iii) explain to the accused V/T that this meeting is not for the purpose of obtaining a response to the complaint from the accused V/T;

(iv) provide to the accused V/T the name of the complainant and the date, location and general nature of the Sexual Misconduct;

(v) explain to the accused V/T any interim measures that the Country Director has taken under Section 3.0 above and discuss with the accused V/T any other interim measures that may be appropriate to protect the privacy or safety of the accused V/T or to ensure that the accused V/T is free from any form of retaliation;

(vi) advise the accused V/T that the accused V/T may, if needed, seek assistance from the Counseling and Outreach Unit; and

(vii) inform the accused V/T that the accused V/T may resign in accordance with Section 4.7 below at any time before the accused V/T is found to have engaged in Sexual Misconduct and the Regional Director (or, on appeal, the Deputy Director) decides that the accused V/T will be administratively separated.

(b) At the initial meeting, the Country Director shall not seek to obtain the accused V/T’s response to the complaint.

**4.7 Resignation by Accused V/T**

(a) If, at any time after a complaint is brought, the accused V/T resigns, the complaint shall be considered to be closed.

(b) Such resignation shall be considered to be a resignation in lieu of administrative separation unless:

(i) the accused V/T resigns before a Hearing Panel determines, in accordance with Section 6.1(c) below, whether there are any material facts in dispute and, if not, whether there is sufficient cause to move forward with the complaint;

(ii) the accused V/T resigns following a withdrawal of the complaint;
(iii) the accused V/T resigns following a final determination that there is not sufficient cause to move forward with the complaint; or

(iv) the accused V/T resigns following a final dismissal of the complaint.

c) If the accused V/T is found to have engaged in Sexual Misconduct and the Regional Director (or, on appeal, the Deputy Director) decides that the accused V/T will be administratively separated, the accused V/T will not be given an opportunity under paragraph 4.0 of MS 284, Early Termination of Service, to resign in lieu of administrative separation.

5.0 Hearing Panel

5.1 Objections to Composition of Hearing Panel

(a) Either party may, within three days of receiving notice of referral of the complaint to a Hearing Panel, object to any member of the Hearing Panel on the basis of a conflict of interest or other good cause.

(b) If a party so objects, the Deputy Director shall decide whether such member should continue to sit on the Hearing Panel or should be replaced by another person selected by the Regional Director. The decision of the Deputy Director shall be final.

5.2 Role

(a) The members of the Hearing Panel shall, in all stages of handling the complaint, act as neutral fact-finders.

(b) The Hearing Panel is empowered to hear allegations of, and to recommend disciplinary or other action for, both Sexual Misconduct and any other violations by V/Ts of IPS 1-12, Volunteer/Trainee Sexual Misconduct, or these procedures, including, without limitation, retaliation prohibited by paragraph 5.3 of IPS 1-12, Volunteer/Trainee Sexual Misconduct, or violation of the obligation to provide truthful testimony in accordance with Section 5.5 below. However, this shall not preclude the Country Director from taking appropriate disciplinary action for violation of any “no contact” order or other directive imposed under Section 3.0 above.

5.3 Chair

The Hearing Panel shall select a chair from among its members.

5.4 Voting

The Hearing Panel shall act by majority vote, except that any finding that a V/T has engaged in Sexual Misconduct or otherwise violated IPS 1-12, Volunteer/Trainee Sexual Misconduct, or these procedures shall be by a unanimous vote of the Hearing Panel.
5.5 **Obligation to Testify Truthfully**

(a) V/Ts who appear before the Hearing Panel, whether as parties to the proceedings or as witnesses, are required to provide truthful testimony.

(b) Any V/T who is found to have intentionally provided false testimony may be subject to disciplinary action up to and including administrative separation.

6.0 **Preliminary Determinations by Hearing Panel**

6.1 **Review of OIG Report**

(a) Upon completion of its investigation of the complaint, OIG shall, if it does not intend to pursue a criminal prosecution in the United States or the relevant authorities have declined to move forward with a criminal prosecution in the United States, furnish copies of its summary report of investigation, including statements of witnesses, to the chair of the Hearing Panel, the Regional Director, the Country Director, the Office of Victim Advocacy (if the complainant has consulted with that office) and OGC.

(b) The chair of the Hearing Panel shall immediately upon receipt forward copies of OIG’s report of investigation to the complainant, the accused V/T and the other members of the Hearing Panel.

(c) The Hearing Panel shall review OIG’s report of investigation to determine whether there are any material facts in dispute and, if not, whether there is sufficient cause to move forward with the complaint.

6.2 **Determination that Material Facts are in Dispute**

If, based on OIG’s report of investigation, the Hearing Panel determines that there are material facts in dispute, the Hearing Panel shall conduct a hearing as promptly as practicable, and, in any event, within 15 days of receiving OIG’s report of investigation, to hear witnesses and review evidence.

6.3 **Finding of Violation of Sexual Misconduct Policy**

If, based on OIG’s report of investigation, the Hearing Panel determines that there are no material facts in dispute and finds, under the standard set out in Section 8.1 below, that the accused V/T engaged in Sexual Misconduct, the Hearing Panel shall consider the appropriate disciplinary or other action to recommend in respect of the accused V/T in accordance with Section 8.2 below. The Hearing Panel shall then issue a report in accordance with Section 8.4 below and the Regional Director shall, upon receipt of the Hearing Panel’s report, issue a written decision on the complaint in accordance with Section 8.5 below. Such decision shall be subject to appeal in accordance with Section 9.0 below.
6.4 Finding of No Sufficient Cause to Move Forward with Complaint

(a) If, based on OIG’s report of investigation, the Hearing Panel finds that there is not sufficient cause to move forward with the complaint, the Hearing Panel shall issue a report containing that finding to the Regional Director pursuant to Section 8.4 below. The Hearing Panel may find that there is not sufficient cause to move forward with the complaint if it determines that there are no material facts in dispute, but is unable to find, by a unanimous vote, that the accused V/T engaged in Sexual Misconduct.

(b) The Regional Director shall, upon receipt of the Hearing Panel’s report, issue a written decision on the complaint in accordance with Section 8.5 below and such decision shall be subject to appeal in accordance with Section 9.0 below.

7.0 Hearing

7.1 Notice of Hearing

(a) The location and manner of the hearing shall be determined by the Hearing Panel based on the location of the complainant and the accused V/T and the number and location of witnesses.

(b) The chair of the Hearing Panel shall provide at least 10 days’ advance written notice of the hearing in person or by email to the complainant and the accused V/T, stating the date, time and place of the hearing. In case of notice by email, the chair of the Hearing Panel shall confirm by telephone that the notice has been received by the complainant and the accused V/T.

7.2 Pre-hearing Meetings

(a) Prior to the hearing, the chair of the Hearing Panel shall convene separate pre-hearing meetings with the parties at which preliminary matters shall be discussed. The pre-hearing meetings may be either in person or by telephone. The complainant may, at the option of the complainant, be accompanied at the pre-hearing meeting by a representative of the Office of Victim Advocacy. The accused V/T may, at the option of the accused V/T, be accompanied at the pre-hearing meeting by a representative of the Counseling and Outreach Unit.

(b) At the pre-hearing meetings, the parties shall provide the chair of the Hearing Panel with lists of the witnesses they propose to call and copies of documents and descriptions of any other information they propose to present at the hearing.

(c) Following the pre-hearing meetings, the chair of the Hearing Panel shall provide each party, and the other members of the Hearing Panel, with copies of the list of witnesses and any documents and other information provided by the other party.

(d) In the absence of good cause (which may include rebuttal of witnesses, documents or other information provided by the other party), a party may not introduce witnesses, documents or other information at the hearing that was not provided to the chair of the Hearing Panel at the pre-hearing meeting.
7.3 Hearing Procedures

(a) The hearing will not follow a courtroom model and formal rules of evidence will not be observed. To the extent practicable, the hearing shall be audio recorded.

(b) The chair of the Hearing Panel shall determine the order of the witnesses and resolve any questions regarding the relevance of any information presented by either party at the hearing and any questions of procedure arising during the hearing.

(c) To the extent available, the parties may rely upon written statements of witnesses made during the investigation if such witnesses are not available to participate in the hearing. This does not preclude the chair of the Hearing Panel from allowing written statements of witnesses made during the investigation from being used for other purposes, including impeachment of witnesses.

(d) The chair of the Hearing Panel may take action to ensure that the parties refrain from repeating undisputed details or presenting non-material information or information that would merely duplicate information already provided in writing to the Hearing Panel.

(e) Evidence of the complainant’s past sexual history shall not be permitted at the hearing except:

(i) evidence of specific instances of sexual behavior by the complainant that is offered to prove that a person other than the accused V/T was the source of semen, injury or other physical evidence;

(ii) evidence of specific instances of sexual behavior between the complainant and the accused V/T that is offered by the accused V/T to prove Effective Consent; or

(iii) evidence of specific instances of sexual behavior between the complainant and the accused V/T that is offered by the complainant.

Before admitting any such evidence, the Hearing Panel must determine that it is relevant to the complaint and that its probative value outweighs the danger of unfair prejudice to any party.

(f) The chair of the Hearing Panel may limit any character testimony regarding either the complainant or the accused V/T. Evidence of the complainant’s reputation shall be permitted at the hearing only if it has been placed in controversy by the complainant.

(g) If the Hearing Panel determines that unresolved issues exist that would be clarified by the presentation of additional information, the chair of the Hearing Panel may, by notice to both parties, suspend the hearing and reconvene it in a timely manner to receive such information. If the Hearing Panel deems it to be necessary in order to obtain such information, it may request OIG (or, if applicable, the investigator arranged by OCRD) to carry out an additional investigation. A delay may not be based on the failure of witnesses to appear without good cause or on the proposed introduction, without good cause, of documents or other information that should have been presented to the chair of the Hearing Panel at the pre-hearing meeting.
7.4 Participation of Parties and Witnesses

(a) The Country Director (or, if appropriate, the Regional Director) shall make arrangements for both parties to be able to participate in the hearing in person. However, at the request of a party, the chair of the Hearing Panel may, in appropriate circumstances in which such party would otherwise be unable to participate in the hearing, permit such party to provide testimony and otherwise participate in the hearing by an electronic means that allows for questioning of such party.

(b) If either party fails to appear at the scheduled hearing, the chair of the Hearing Panel may postpone the proceedings or, as long as the absent party was duly notified of the scheduled hearing as set forth in Section 7.1(b) above, direct that the hearing proceed and process the complaint on the basis of any available information.

(c) The parties are responsible for the participation of their witnesses at the hearing. However, upon timely request by a party or witness, the chair of the Hearing Panel shall request the Country Director or the Regional Director to make reasonable arrangements for witnesses who would otherwise be unable to participate in the hearing to provide testimony by an electronic means that allows for questioning of such witnesses.

(d) The accused V/T has the option not to testify and the chair of the Hearing Panel shall inform the accused V/T that any testimony by the accused V/T may subsequently be used in a criminal prosecution. The exercise by the accused V/T of the option not to testify shall not preclude the Hearing Panel from proceeding with the hearing and determining the complaint on the basis of the other available information.

7.5 Legal and Other Representation

(a) Both the complainant and the accused V/T may, at their own expense, have advisors, including legal counsel, present to support and assist them during the hearing. In addition, the complainant may, at the option of the complainant, have a representative of the Office of Victim Advocacy and the accused V/T may, at the option of the accused V/T, have a representative of the Counseling and Outreach Unit present to support and assist them during the hearing. Such advisors may privately consult with and advise the parties during the hearing and suggest questions to the Hearing Panel in accordance with Section 7.6(b) below, but may not examine witnesses or otherwise directly participate in the hearing on behalf of either party.

(b) The chair of the Hearing Panel may disallow a particular advisor in cases where such an advisor might be a witness or where such advisor’s presence, in the chair’s sole discretion, would be obstructive to the process or for other good cause.

(c) The Hearing Panel may seek advice from OGC throughout the hearing process on questions of law, policy and procedures.

7.6 Questioning of Parties and Witnesses

(a) Only members of the Hearing Panel may question the individual parties and any witnesses.
(b) Either party or a party’s advisor may ask the chair of the Hearing Panel to pose additional questions or to inquire further into specific matters by submitting such requests in writing or, at the discretion of the chair of the Hearing Panel, orally. If necessary, the chair of the Hearing Panel may grant a brief break to allow both parties an opportunity to prepare and submit such requests.

(c) The chair of the Hearing Panel may disallow any questions that are irrelevant or redundant and may reframe any questions.

7.7 Closing Statements

After all the witnesses have been questioned, each party may make a closing statement. The chair of the Hearing Panel shall allow a short recess after the questioning of witnesses to allow the parties to prepare their closing statements.

8.0 Decision on the Complaint

8.1 Standard of Proof

For any complaint of Sexual Misconduct, the Hearing Panel shall evaluate evidence of Sexual Misconduct under a “preponderance of the evidence” standard. This standard is satisfied if the Hearing Panel, by a unanimous vote, concludes, based upon a careful review of all information presented, that it is more likely than not that the accused V/T engaged in Sexual Misconduct.

8.2 Recommendation of Disciplinary or Other Action

(a) If the Hearing Panel finds under the preponderance of the evidence standard that the accused V/T engaged in Sexual Misconduct, the Hearing Panel shall consider the appropriate disciplinary or other action to recommend in respect of the accused V/T.

(b) The Hearing Panel may recommend any disciplinary action under the Peace Corps Manual (including administrative separation) that the Hearing Panel finds to be fair and proportionate to the violation. In addition, the Hearing Panel may recommend non-disciplinary actions such as changes in the site, the work assignment or the housing arrangements of the accused V/T, imposition of a “no contact” order under which the accused V/T is required to stay away from the complainant and refrain from having any form of contact with the complainant or separation of the accused V/T with interrupted service status.

(c) Each party may present to the Hearing Panel a statement setting forth any aggravating or mitigating factors that such party wishes the Hearing Panel to take into consideration when recommending disciplinary or other action.

(d) In recommending appropriate disciplinary or other action, the Hearing Panel shall consider the nature and severity of the Sexual Misconduct or other violations in question, along with the aggravating and mitigating factors raised by the parties, any record of past violations of Peace Corps policy by the accused V/T and the nature and severity of any such past violations, and whether the disciplinary or other action will bring an end to the violation in question,
reasonably prevent a recurrence of a similar violation and remedy the effects of the violation on
the complainant and the program and operations of the Peace Corps.

8.3 **Acknowledgement of Responsibility by Accused V/T**

At any time prior to the conclusion of the hearing, the accused V/T may elect to acknowledge his
or her actions and take responsibility for having engaged in Sexual Misconduct. In that case, the
Hearing Panel shall, if the accused V/T does not resign in accordance with Section 4.7 above,
consider the appropriate disciplinary or other action to recommend in respect of the accused V/T
in accordance with Section 8.2 above.

8.4 **Hearing Panel’s Report**

(a) The Hearing Panel shall issue a report to the Regional Director within five days after
completion of the hearing.

(b) The Hearing Panel’s report shall contain its findings as to whether the accused V/T
engaged in Sexual Misconduct and as to whether the accused V/T, the complainant or any other
V/T otherwise violated IPS 1-12, Volunteer/Trainee Sexual Misconduct, or these procedures.

(c) If the Hearing Panel finds a violation of IPS 1-12, Volunteer/Trainee Sexual Misconduct,
or these procedures, its report shall also contain its recommendation for disciplinary or other
action.

(d) The Hearing Panel’s report shall include a detailed analysis of the events in question and
a description of any aggravating or mitigating factors that the Hearing Panel took into
consideration in recommending disciplinary or other action. To the extent appropriate, the
Hearing Panel’s report may include testimony of witnesses at the hearing and other
photographic, electronic and forensic evidence introduced at the hearing.

8.5 **Decision by Regional Director**

(a) Within five days of receipt of the Hearing Panel’s report, the Regional Director shall
issue a written decision in respect of the complaint, including reasons for the decision. Copies of
the Regional Director’s decision shall be provided to the complainant and the accused V/T.

(b) The Regional Director shall be bound by the Hearing Panel’s findings as to whether the
accused V/T engaged in Sexual Misconduct and as to whether the accused V/T, the complainant
or any other V/T otherwise violated IPS 1-12, Volunteer/Trainee Sexual Misconduct, or these
procedures. However, if the Regional Director is not satisfied with the Hearing Panel’s findings
on those issues, the Regional Director may request in writing the Hearing Panel to carry out
additional hearings, setting out the reasons for that request.

(c) The Regional Director is not bound to accept the Hearing Panel’s recommendation of
disciplinary or other action and may take different disciplinary or other action or take no action.
9.0  Appeal

9.1  Filing of Appeal and Response

(a) Either the accused V/T or the complainant may file an appeal with the Deputy Director within five days of receipt of the Regional Director’s decision. No other V/T may appeal the Regional Director’s decision. If no appeal is received by the Deputy Director by that deadline, the Regional Director’s decision shall be final.

(b) The appeal must contain all of the reasons for the appellant’s challenge to the decision of the Regional Director. The subject of the appeal may be either the finding as to whether the accused V/T engaged in Sexual Misconduct, or the disciplinary or other action to be taken in respect of the accused V/T, or both. A decision of the Regional Director as to whether the accused V/T, the complainant or any other V/T otherwise violated IPS 1-12, Volunteer/Trainee Sexual Misconduct, or these procedures is not subject to appeal.

(c) The Deputy Director shall promptly furnish a copy of the appeal to the other party. The other party may respond to the appeal within five days of receipt.

9.2  Decision of Deputy Director

(a) The Deputy Director shall decide the appeal based upon the written record.

(b) The Deputy Director shall issue a written decision in respect of the appeal, including reasons for the decision, within 10 days of receipt of the appeal. Copies of the Deputy Director’s decision shall be provided to the complainant and the accused V/T.

(c) In the case of an appeal of the Hearing Panel’s finding as to whether the accused V/T engaged in Sexual Misconduct, the Deputy Director may either affirm the decision or request the Hearing Panel to carry out additional hearings, setting out the reasons for that request. In the case of an appeal of any disciplinary or other action to be taken in respect of the accused V/T, the Deputy Director may either affirm the decision of the Regional Director or determine that different disciplinary or other action (or no action) should be taken.

(d) The decision of the Deputy Director on the appeal shall be final.

10.0  Confidentiality of Records

(a) All documents, files and other records regarding any complaint of Sexual Misconduct (including any recording or transcript of any hearing conducted under these procedures) shall be contained in a separate Privacy Act system of records maintained by the Office of the General Counsel and shall be handled in accordance with the Privacy Act. Except as expressly provided in these procedures or the Peace Corps’ sexual assault policy or required by the Privacy Act or other applicable law, no such documents, files or other records shall be disclosed to any person either within or outside of the Peace Corps.
(b) If the Peace Corps is required by the Privacy Act or other applicable law to disclose any such document, file or other record to any party to the complaint or to any person outside of the Peace Corps, all private information regarding the complainant, the accused V/T and any witnesses (such as dates of birth, social security numbers, telephone numbers, email addresses and physical addresses) shall, to the extent permitted by applicable law, be redacted from such document, file or other record prior to such disclosure.

(c) Peace Corps staff shall maintain the confidentiality of any information received by them regarding any complaint of Sexual Misconduct and shall not disclose any such information to any person either within or outside of the Peace Corps unless expressly authorized to do so by these procedures or the Peace Corps’ sexual assault policy, unless required to do so by the Privacy Act or other applicable law, or unless it is necessary to do so in connection with Congressional oversight or judicial or law enforcement proceedings.

(d) Notwithstanding Section 10.0(a) above, any resignation in lieu of administrative separation pursuant to Section 4.7 above and any final decision that the accused V/T has been found to have engaged in Sexual Misconduct shall also be placed in the Trainee/Volunteer Service File of the accused V/T.