

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

Effective Date: July 3, 2019

Responsible Offices: Office of Sexual Assault Prevention and Response, Office of the General Counsel, Office of Global Operations, Office of Safety and Security, Office of Health Services, and Office of Victim Advocacy

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IPS 1-12 *Volunteer/Trainee Sexual Misconduct*

Attachments

Attachment A – Limited Waiver of Confidentiality

Attachment B – Sample Memo to the Accused Volunteer/Trainee

Attachment C – Sample Memo to the Regional Director

1.0 Applicability

- (a) The IPS 1-12 Procedures for Handling Complaints of Volunteer/Trainee Sexual Misconduct (Procedures) must be used by Peace Corps staff who learn of an allegation of Sexual Misconduct by one currently serving Volunteer/Trainee (V/T) against another V/T. In cases of sexual assault, the allegation is classified as a Standard Report of sexual assault pursuant to MS 243 *Responding to Sexual Assault*.
- (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.

2.0 Definitions

The terms defined in IPS 1-12 *Volunteer/Trainee Sexual Misconduct* have the same meanings when used in these procedures. For purposes of these Procedures, the below definitions are in addition to those terms defined in IPS 1-12.

- (a) ***Appropriate Disciplinary Action*** means, upon a finding that an Accused V/T has engaged in Sexual Misconduct and thereby violated IPS 1-12, the Appropriate Disciplinary Action is administrative separation. A lesser disciplinary action may be imposed in some cases, pursuant to section 8.4.

- (b) **Accused Volunteer/Trainee (V/T)** means, or refers to, the V/T who has been identified (either by the Victim or a third party) as having perpetrated Sexual Misconduct.
- (c) **Complaint** means an allegation of Sexual Misconduct brought by a current or former V/T, against another V/T. These Procedures only apply to Complaints brought against currently serving V/Ts.
- (d) **Days** mean calendar days. Any deadlines for action specified in these Procedures may be extended at the Regional Director’s discretion.
- (e) **Review Panel** means a group of two Peace Corps staff members who are responsible for reviewing and responding to Complaints of V/T Sexual Misconduct. The review panel must consist of one staff member from the Office of Safety and Security (OSS) and one staff member from the Office of Global Operations (OGO). The members of the Review Panel are selected by the Regional Director for the Region where the incident occurred, and the Associate Director for Safety and Security, from a group of specially trained Peace Corps headquarters staff who hold eligible positions. Eligible positions include Chiefs of Operations (OGO), Regional Security Advisors (OGO), and Designated Security Specialists (OSS), or Peace Corps staff members functioning in those capacities.
- (f) **Victim** means, or refers to, the V/T who has been identified (either by the Volunteer or a third party) as being the target of Sexual Misconduct by another V/T. The term “Victim” and its use shall not imply or suggest any assumptions by Peace Corps regarding the incident in question, the fault of the Accused V/T, or the outcome of the review.

3.0 Roles and Responsibilities

3.1 Country Director

The Country Director (CD) is responsible for the following:

- (a) Ensuring, upon receipt of any allegation of Sexual Misconduct, that Post staff follow the policy and procedures of MS 243 *Responding to Sexual Assault* (if applicable) and consult with the Office of General Counsel (OGC) for guidance regarding these Procedures.
- (b) Convening, as soon as practicable after receiving the allegation, an initial meeting with the Victim while providing the Victim with a general explanation of IPS 1-12 *Volunteer/Trainee Sexual Misconduct* and conforming Procedures. During the initial meeting with the Victim, the CD shall:
 - (1) Inform the Victim that the Victim does not have to participate in the administrative resolution of the Complaint, but may do so if the Victim wishes;
 - (2) Review IPS 1-12 Attachment A – Limited Waiver of Confidentiality with the Victim;

- (3) Determine how the Victim wishes to proceed, including whether the Victim wishes to participate in the administrative resolution of the Complaint in accordance with these Procedures, and whether the Victim wishes to sign IPS 1-12 Attachment A – Limited Waiver of Confidentiality;
 - (4) Give the Victim an opportunity to consult with a representative of the Office of Victim Advocacy (OVA), before the Victim decides whether to participate in the administrative resolution of the Complaint or sign IPS 1-12 Attachment A – Limited Waiver of Confidentiality;
 - (5) Inform the Victim that, regardless of whether the Victim wishes to participate in the administrative resolution of the Complaint or requests that the Complaint remain confidential, the identity of the Victim and information regarding the Complaint will be disclosed to the Office of the Inspector General (OIG) and Peace Corps staff that have a specific need to know in order to carry out their responsibilities under these Procedures.
 - (6) Provide the Victim with the contact information for OIG and inform the Victim that the Victim may contact OIG directly and inform the Victim that OIG may be unable to share certain information with the Peace Corps, but that the agency will continue to follow these Procedures to the extent possible based on the information it has.
- (c) Meeting with the Accused V/T, preferably in person, following consultation with OIG and OGC, OSS, and the appropriate Regional Director. During that meeting or conversation, the CD shall:
- (1) Provide the Accused V/T with a general explanation of IPS 1-12 Volunteer/Trainee Sexual Misconduct and these Procedures.
 - (2) Inform the Accused V/T that the Accused V/T is the subject of a Sexual Misconduct Complaint brought by another V/T.
 - (3) Advise the Accused V/T that the Accused V/T may, if needed, seek mental health services from the Behavioral Health and Outreach Unit (BHO) in the Office of Health Services (OHS); and
 - (i) Inform the Accused V/T that the Accused V/T may resign at any time, in accordance with section 6.2 below.
- (d) Seeking to generally maintain a neutral advisory role with respect to the Victim and the Accused V/T. To that end, the Country Director should not solicit any facts or arguments regarding the Complaint from the Accused V/T or the Victim and shall refer any substantive questions or issues to the Regional Director, who may confer with the Review Panel. However, the Country Director should remain available to answer procedural questions and provide information or updates about the process to the Accused V/T or the Victim.

- (e) Considering and implementing interim measures in accordance with section 3.0, as appropriate.
- (f) Nothing in these Procedures precludes a Country Director from taking disciplinary against an Accused V/T for misconduct other than Sexual Misconduct.

3.2 Office of Victim Advocacy

The Office of Victim Advocacy is responsible for the following:

- (a) Offering Victims information and support throughout the process represented in these Procedures, as requested by the Victim;
- (b) Reviewing, upon a Victim's request, any materials sent to the Victim by the Review Panel or others; and
- (c) Participating in the development and delivery of training to Review Panel members, CDs, RDs, or others who may receive training pursuant to this IPS 1-12 *Volunteer/Trainee Sexual Misconduct* policy and conforming procedures.

3.3 Office of the General Counsel

The Office of the General Counsel is responsible for the following:

- (a) Providing advice and guidance to Review Panel members, CDs, RDs, and other Peace Corps staff on the interpretation and implementation of IPS 1-12 *Volunteer/Trainee Sexual Misconduct* and these Procedures;
- (b) Receiving investigative products from OIG and distributing them to the appropriate parties;
- (c) Reviewing written materials and correspondence by the Review Panel and the Regional Director, including memos required in sections 7.5, 8.2 and 8.3; and
- (d) Assisting in the development of trainings, as indicated in sections 6.1(b) and 7.2.

3.4 Office of Sexual Assault Prevention and Response

The Office of Sexual Assault Prevention and Response is responsible for coordinating the development and delivery of trainings with other offices, as indicated in sections 6.1(b) and 7.2.

3.5 Office of Safety and Security

The Office of Safety and Security is responsible for the following:

- (a) Designating OSS staff or contractors who may conduct administrative investigations of Sexual Misconduct and ensuring that those personnel receive the training required under section 6.1(b);

- (b) Facilitating the travel and procurement of investigation tools for OSS investigators, as needed; and
- (c) Conducting safety assessments pursuant to MS 270 *Volunteer/Trainee Safety and Security* and applicable Safety and Security Instructions and communicating the results of the safety assessments to the Review Panel members and Country Director, as appropriate.

3.6 Office of Inspector General

The Office of Inspector General, in addition to the roles and responsibilities contained in MS 861 *Office of Inspector General*, is responsible for the following:

- (a) Receiving referrals of Sexual Misconduct Complaints from Country Directors and responding to those referrals;
- (b) Providing the agency with investigative products, as appropriate; and
- (c) Engaging in open communication with the agency regarding the status of its investigations and the anticipated timeline for completing the investigation.

3.7 Regional Director

The Regional Director is responsible for the following:

- (a) Convening the Review Panel in accordance with section 6.4; and
- (b) Upon receipt of the Review Panel's recommendation, the Regional Director shall write and issue a final written decision in respect of the Complaint.

4.0 Referral to the Office of Inspector General

- (a) If the Victim wishes to participate in the administrative resolution of the Complaint, the Country Director shall request that the Victim sign Attachment A – Limited Waiver of Confidentiality accompanying these procedures.
- (b) The Country Director shall determine from the Victim the (i) name of the Accused V/T and (ii) the date, location, and general nature of the Sexual Misconduct (if the Victim has not already provided such information). The Country Director shall promptly do the following:
 - (1) Provide to OIG the name and contact information (including telephone number and email address) of the Victim, name of the Accused V/T, and date, location, and general nature of the Sexual Misconduct;
 - (2) Notify OIG of the Victim's wishes regarding participation in the administrative resolution of the Complaint; and

- (3) Request, if appropriate, OIG to conduct an investigation of the Complaint.
- (c) Nothing in these procedures precludes OIG from investigating a Complaint of Sexual Misconduct, including Standard Reports of sexual assault, on its own initiative.

5.0 Interim Measures

5.1 Purpose and Nature

- (a) The Country Director shall take prompt and effective interim measures, as are reasonably practicable under the circumstances, to protect the privacy and safety of the Victim, Accused V/T, and other V/Ts and ensure that the Victim, Accused V/T, and any other V/T are not subject to retaliation.
- (b) When deciding on interim measures, the Country Director shall consult with OIG, OVA, the Regional Director, OSS, BHO, and OGC while taking into account any request by the Victim to maintain the confidentiality of the Complaint.
- (c) Subject to section 5.1(d) below, interim measures may include, but are not limited to, the following:
 - (1) Reasonable measures to physically separate the Victim and Accused V/T, such as through changes in the site, work assignment, or the housing arrangements of the Victim or Accused V/T; and
 - (2) Imposition of a “no contact” order under which the Victim and Accused V/T are required to stay away from one another and refrain from having any form of contact with each other, directly or through proxies, whether in person, in writing, or via electronic means.
- (d) When taking interim measures, the Country Director shall make every reasonable effort to avoid changes to the site, work assignment, or housing arrangements of the Victim. The Country Director shall inform the Victim and Accused V/T of any interim measures taken.
- (e) Any V/T who is found to have violated a “no contact” order, or other directive imposed by the Country Director under these procedures, may be subject to disciplinary action up to and including administrative separation. The Country Director may undertake such disciplinary action in accordance with these Procedures and MS 284 *Early Termination of Service*, without referring the Complaint to the Review Panel.

5.2 Option of Administrative Hold

To protect the privacy, safety, and/or well-being of the Victim, Accused V/T, or other V/Ts or to ensure that the Victim, Accused V/T, or any other V/T are not subject to retaliation, the Country Director may request that the Regional Director authorize that the Accused V/T be placed on

administrative hold and sent back to the home of record, pursuant to section 8.2 of MS 220 *Leave for Volunteers/Trainees*, pending resolution of the Complaint.

6.0 Investigation and Referral to Review Panel

6.1 Investigation

- (a) Following a request by the Country Director to OIG pursuant to section 4.0(b)(3), OIG shall review the information provided by the Country Director, decide whether to investigate the Complaint, and promptly notify the Country Director of its decision.
- (b) OIG will endeavor to respond to the referral within 48 hours (excluding weekends and holidays). If OIG notifies the Country Director that it has decided not to investigate the Complaint, the Country Director shall request that OSS arrange for an investigation of the Complaint to be carried out. In that case, any references in these Procedures to an investigation by OIG shall instead refer to the investigation arranged by OSS.
 - (1) The Associate Director for the Office of Safety and Security will ensure that any OSS staff or contractors who undertake an administrative investigation, pursuant to this subsection, have received appropriate training in administrative investigations of Sexual Misconduct.
 - (2) Any OSS staff who undertake an investigation, pursuant to this subsection, may not be on the Review Panel for any matter which they investigated.
- (c) OIG shall determine the nature and scope of its investigation based on the facts of the case as they develop.
- (d) If, during the course of the investigation, the Accused V/T admits to the essential elements of Sexual Misconduct, OIG may immediately notify the Country Director and, if possible, provide the corresponding interview summary, recording, or transcript. The Country Director will notify OSS, Region, OVA, and OGC. Then, the Country Director may take disciplinary action in accordance with these Procedures and MS 284 *Early Termination of Service*, without referring the Complaint to the Review Panel.
- (e) During or after the investigation, OIG may provide OGC with its investigative products, such as:
 - (1) Audio recordings of interviews with relevant witnesses, including the Victim and Accused V/T;
 - (2) Transcripts of interviews with relevant witnesses, including the Victim and Accused V/T;
 - (3) Memoranda of Interviews (MOI) concerning interviews with relevant witnesses, including the Victim and Accused V/T;
 - (4) Photographs, videos, or audio files;

- (5) Summary of forensic evidence; and/or
- (6) Copies of relevant electronic communications.
- (f) In the event that OIG sends investigative products to any Peace Corps staff or office other than OGC, the recipient should immediately forward the materials to OGC for coordination with the Review Panel.
- (g) During the course of the investigation, OIG and the agency should engage in open and frequent communication regarding the status of the investigation and should work together to ensure that the process is efficient, fair, trauma-informed, and is otherwise consistent with Peace Corps' policies.

6.2 Resignation by Accused Volunteer/Trainee

- (a) If the Accused V/T resigns after a Complaint is brought, the Complaint is considered to be closed.
- (b) If the Accused V/T resigns before being presented with a memo as outlined in Attachment B – Sample Memo to the Accused Volunteer/Trainee, the Country Director shall comply with MS 284 *Early Termination of Service* and complete MS 284 – Attachment J – Volunteers/Trainees Who Early Terminate or Close Service Pending Investigation or Inquiry.
- (c) The resignation of an Accused V/T in the manner outlined in 6.2(b) shall be considered a resignation in lieu of administrative separation unless the Accused V/T resigns:
 - (1) before being notified by Peace Corps staff (including OIG) of the Sexual Misconduct Complaint;
 - (2) following a withdrawal of the Complaint; or
 - (3) following a final determination which concludes there has not been a violation of IPS 1-12 *Volunteer/Trainee Sexual Misconduct*.

6.3 Criminal Prosecution

- (a) If OIG notifies the Office of the General Counsel that the Department of Justice is 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 from service, with a designation of “resignation in lieu of administrative separation.” Such separation will not trigger the procedural requirements, as specified in 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.

6.4 Referral to Review Panel

- (a) To refer a matter to the Review Panel, the CD, or designee, shall notify the Regional Director of the need for a Review Panel and the Regional Director will convene a Review Panel.
- (b) Except as described in section 6.4(d), the CD, in consultation with OGC, shall promptly refer the Complaint to the Review Panel (via the Regional Director) for resolution once OIG notifies OGC that:
 - (1) the Accused V/T has denied one or more of the essential elements of Sexual Misconduct;
 - (2) the relevant authorities do not object to the agency moving forward with an administrative proceeding; and
 - (3) it has completed interviews with the relevant witnesses, including the Victim (if applicable) and the Accused V/T.
- (c) The Country Director should not wait for receipt of an OIG Report of Investigation before notifying the Regional Director to convene a Review Panel. The agency may ask OIG to notify OGC of these matters outlined in section 6.4(b) before a report of investigation is completed.
- (d) In cases where the Victim does not wish to participate in the administrative resolution of the Complaint, the Regional Director and Country Director should respect the wishes of the Victim and not refer the Complaint to the Review Panel. In such cases, the Country Director should document the circumstances in CARS/CMS.

Under such cases, the Country Director, in consultation with OGC, OSS, OVA, OIG, and the Region, may still ask the Regional Director to convene a Review Panel if:

- (1) There have been other allegations of Sexual Misconduct against the Accused V/T, even if the allegations have not been formally made under IPS 1-12 *Volunteer/Trainee Sexual Misconduct*;
- (2) The Sexual Misconduct alleged presents a potential serious or imminent threat against the Victim or other Volunteers;
- (3) The Sexual Misconduct alleged involves the use of a weapon or use of force; or
- (4) It is determined to be in the best interest of the Peace Corps or the Victim.

7.0 Review Panel

7.1 Role and Voting

- (a) The Review Panel is empowered to hear allegations of, and to advise on disciplinary action for Sexual Misconduct. Any other violations by V/Ts of IPS 1-12 *Volunteer/Trainee Sexual Misconduct*, or these procedures, including retaliation prohibited by IPS 1-12, or violation of the “no contact” directive prohibited by IPS 1-12, shall be handled by the Country Director, who may take Appropriate Disciplinary Action against the offending V/T in accordance with MS 204 *Volunteer Conduct* and MS 284 *Early Termination of Service*.
- (b) During all stages of handling the Complaint, the Review Panel members shall act as neutral fact-finders and refer its findings of fact and recommendations to the Regional Director, as indicated under these Procedures.
- (c) In some circumstances, making findings of fact may require the Review Panel to assess the credibility of witnesses, the Accused V/T, or the Victim.
- (d) The Review Panel shall act by unanimous vote.

7.2 Training

- (a) All Review Panel members must receive annual specialized training in the handling of Complaints of Sexual Misconduct, sexual assault awareness, and Victim sensitivity.
- (b) Training of Review Panel members shall be coordinated by the the Office of Sexual Assault Risk Reduction and Response (OSARRR) in coordination with OGC, OVA, and other relevant offices.

7.3 Composition and Conflicts of Interest

- (a) Within five Days of the referral from a Country Director, the Regional Director should convene a Review Panel, consisting of at least one eligible staff member from both OSS and the Region, who have received the appropriate training described in section 7.2.
- (b) In order to avoid a conflict of interest or the appearance of a conflict of interest, the Review Panel shall consist of staff that have not been directly involved in the particular case, or involved directly or indirectly in the agency’s response to the Victim, prior to the matter’s investigation, review, and determination pursuant to these Procedures.
- (c) The Regional Director can substitute trained Review Panel members in the event of unexpected unavailability of a Review Panel member.

7.4 Review of the Complaint

- (a) Once they are received, OGC will send any and all investigative products to the Review Panel members.

- (b) The Review Panel shall begin to review the Complaint once it has received, at a minimum, transcripts, recordings, or summaries of interviews with the Victim (if participating), Accused V/T, and any material witnesses. Material witnesses are individuals whose account or knowledge is likely to be sufficiently important to influence the outcome of the review.
 - (1) OGC will advise the Review Panel on whether the materials received are sufficient to trigger the panel's review of the Complaint;
 - (2) OGC will consult with OIG in this regard, and notify OIG before the agency takes administrative action.
- (c) In some cases, the Peace Corps may wish to proceed with administrative resolution even though the Review Panel has not received some, or all, of the investigative products listed in section 7.4(b). In those cases, the Review Panel may rely exclusively on CIRS reports, threat assessments, or other relevant information to assess the appropriate outcome.
 - (1) Examples of such cases include those in which (i) the Victim has elected not to participate in the resolution of the Complaint, (ii) the Victim has withdrawn from the matter, or (iii) OIG undertook an investigation, but has not provided the agency with investigative products in a timely fashion.
 - (2) The Peace Corps will consult with OIG prior to proceeding with an administrative resolution in such cases.

7.5 Communication with the Victim and Accused Volunteer/Trainee

V/Ts who provide written or other information to the Review Panel, whether as parties to the proceedings or as witnesses, are required to provide truthful information. Any V/T who is found to have intentionally provided false information may be subject to disciplinary action up to and including administrative separation.

- (a) Within five Days of commencing the review of the Complaint, the Review Panel shall contact the Accused V/T in order to apprise the Accused V/T of the administrative review and solicit the Accused V/T's written response. The Review Panel may use IPS 1-12 Attachment B – Sample Memo to the Accused Volunteer/Trainee as a template, but the memo from the Review Panel to the Accused V/T must do the following:
 - (1) Be sent to the Accused V/T via the Country Director by e-mail, with an acknowledgement of receipt from the Accused V/T (in addition, the memo can be read to the Accused V/T over the phone or given in person);
 - (2) Advise the Accused V/T that the Accused V/T is the subject of a Complaint of Sexual Misconduct;

- (3) Advise the Accused V/T that a Complaint of Sexual Misconduct, if substantiated, may result in disciplinary action against the Accused V/T, up to and including administrative separation;
- (4) Advise the Accused V/T of the nature of the Complaint, including:
 - (i) The name of the Victim;
 - (ii) The date or range of dates in which it was alleged to occur;
 - (iii) A summary of the facts alleged by the Victim and any relevant witnesses, as well as statements by the Accused V/T;
- (5) Solicit the Accused V/T's response to the Complaint which may include:
 - (i) An invitation to submit a narrative statement;
 - (ii) An opportunity for the Accused V/T to identify any additional witnesses or supply the Review Panel with witness statements;
 - (iii) Specific questions that the Review Panel wishes to pose to the Accused V/T that have not been addressed by the OIG investigation;
 - (iv) Advise the Accused V/T that the Accused V/T is not required to submit any response, but that any response or materials provided will be considered by the agency in making its findings of fact and assessment of Appropriate Disciplinary Action.
- (b) The Accused V/T has the option not to provide any substantive response to the Complaint, and the Review Panel shall inform the Accused V/T that any statement made by the Accused V/T may subsequently be used in a criminal prosecution. If the Accused V/T elects not to submit a response, the Review Panel shall not be precluded from proceeding with the review and determining the Complaint on the basis of the other available information.
- (c) If the Victim has elected to participate in the administrative resolution of the Complaint, the Review Panel shall contact the Victim within five Days of commencing the review of the Complaint. This communication is meant to apprise the Victim of the administrative review and solicit additional relevant information from the Victim, if needed. The communication from the Review Panel to the Victim must:
 - (1) Be sent to the Victim via the Country Director through e-mail, with acknowledgement of receipt (in addition, the communication can be read to the Victim over the phone or provided in person);
 - (2) Advise the Victim that the Review Panel is evaluating the Victim's Complaint of Sexual Misconduct;

- (3) Advise the Victim of the Review Panel's role and general process;
- (4) Provide the Victim with a copy of IPS 1-12 *Volunteer/Trainee Sexual Misconduct* and these Procedures.
- (5) Solicit the Victim's input regarding the Complaint. In appropriate cases, the Review Panel may do so through a Victim Advocate in OVA which may include:
 - (i) An invitation to submit a narrative statement;
 - (ii) An opportunity for the Victim to identify any additional witnesses or supply the Review Panel with witness statements;
 - (iii) Specific questions that the Review Panel wishes to pose to the Victim that have not been addressed by the OIG investigation;
 - (iv) An opportunity to provide a Victim impact statement, explaining how the incident may have affected the Victim and his/her service, and how the Victim would like to see the matter resolved, if substantiated.
- (d) The Victim has the option not to provide any input or a response to the Review Panel. If the Victim elects not to submit any input or a response, the Review Panel shall not be precluded from proceeding with the review and determining the Complaint on the basis of the other available information.

7.6 Evidence Considered by the Review Panel

- (a) The Review Panel will not (i) hold a hearing or trial, (ii) follow a courtroom model, and (iii) observe formal rules of evidence.
- (b) In order to ensure sound and consistent decisions, the Review Panel must disregard certain types of information or evidence (see below in section 7.6(b)(1)-(5)), even if such information or evidence is contained in the OIG materials or submissions of the Accused V/T, Victim, or witnesses. The following information or evidence may not be relied upon by the Review Panel in making findings of fact or disciplinary recommendations below as follows:
 - (1) Irrelevant Information or Evidence – Irrelevant information or evidence may have nothing to do with the Complaint and, if so, does not make a fact more or less important. A fact is irrelevant when it does not help the Review Panel make a determination on the Complaint.
 - (2) Evidence of Past Sexual History – Information or evidence of the Victim's past sexual history shall not be considered in the Review Panel's consideration of the Complaint, except as outlined as follows:

- (i) evidence of specific instances of sexual behavior by the Victim 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 Victim and 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 Victim and Accused V/T that is offered by the Victim.

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

- (3) Polygraph Tests – Polygraph test results or the fact that a polygraph was administered;
 - (4) Character Evidence or Evidence of Reputation – Character evidence or evidence of reputation (unless that evidence has to do with the truthfulness of the Accused V/T, the Victim, or a witness);
 - (5) Evidence or Questions Not Consistent with Best Practices – Evidence or questions that are not consistent with best practices in the field of sexual assault and gender-based violence.
- (c) The Review Panel may seek advice and guidance from OGC throughout the process.
- (d) As appropriate, the Review Panel should seek information and input from the Country Director and keep the Country Director apprised of its actions throughout the process.

7.7 Legal and Other Representation

At their own expense, both the Victim and Accused V/T may have advisors, including legal counsel, to support and assist them during the process. However, the Review Panel may not communicate with such advisors about the matter and shall not accept any communication from such advisors in making a determination on the Complaint.

8.0 Decision on the Complaint

8.1 Standard of Proof

For any Complaint of Sexual Misconduct, the Review Panel shall evaluate evidence of Sexual Misconduct under a “preponderance of the evidence” standard. This standard is satisfied if the Review Panel finds, 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 Review Panel's Memo to the Regional Director

The Review Panel shall issue a memo to the Regional Director within fifteen Days of receiving the last material(s) upon which it relied. A template is included in Attachment C – Review Panel's Recommendation Report.

- (a) The Review Panel's memo shall include a detailed analysis of the events in question, the evidence reviewed, and a description of the factors that the Review Panel took into consideration when reaching its findings of fact.
- (b) The Review Panel's memo shall contain its findings regarding whether the Accused V/T engaged in Sexual Misconduct.
- (c) If the Review Panel finds a violation of IPS 1-12 *Volunteer/Trainee Sexual Misconduct*, the Review Panel's memo shall also contain its recommendation for Appropriate Disciplinary Action, see section 8.4 below.

8.3 Decision by Regional Director

- (a) Within five Days of receipt of the Review Panel's report, the Regional Director shall issue a written decision in respect of the Complaint. The decision must include the following:
 - (1) Procedural background;
 - (2) Reasons for the decision; and
 - (3) Disciplinary action imposed, if applicable.

This decision may only be issued upon clearance by OGC. The Victim, Accused V/T and Country Director shall receive copies of the Regional Director's decision.

- (b) The Regional Director shall be bound by the Review Panel's findings as to whether the Accused V/T engaged in Sexual Misconduct. However, if the Regional Director is not satisfied with the Review Panel's findings on those issues, the Regional Director may request in writing that the OIG or Review Panel carry out additional fact-finding or deliberations while providing reasoning and justification for that request.
- (c) The Regional Director shall be bound by the Review Panel's recommendation of Appropriate Disciplinary Action, unless the Review Panel invokes the exception noted in section 8.4(c). In such cases, the Regional Director may do the following:
 - (1) Accept the Review Panel's recommendation
 - (2) Ask the Review Panel to provide a more detailed explanation for the exception; or
 - (3) Impose Appropriate Disciplinary Action.

- (d) If the Accused V/T is found to have engaged in Sexual Misconduct, the Accused V/T will not be given an opportunity under section 4.0 of MS 284 *Early Termination of Service* to resign in lieu of administrative separation.

8.4 Disciplinary Action

- (a) If the Review Panel finds under the preponderance of the evidence standard that the Accused V/T engaged in Sexual Misconduct, the Review Panel shall recommend Appropriate Disciplinary Action in respect of the Accused V/T. Appropriate Disciplinary Action for any Sexual Misconduct is generally administrative separation.
- (b) In cases where there has been a finding of Rape, Aggravated Sexual Assault, or Sexual Exploitation, the Appropriate Disciplinary Action is always administrative separation. In cases where there has been a finding of Stalking or Non-Aggravated Sexual Assault, the Review Panel may choose to recommend a disciplinary action other than administrative separation, when extraordinary circumstances are present.
- (c) In determining whether extraordinary circumstances warrant a disciplinary action other than administrative separation, the Review Panel and Regional Director must consider all of the factors below as follows:
 - (1) the nature and severity of the Sexual Misconduct violation in question,
 - (2) the wishes of the Victim,
 - (3) whether the disciplinary action will bring an end to the violation in question,
 - (4) whether the disciplinary action would reasonably prevent a recurrence of a similar violation by the Accused V/T, and
 - (5) whether the disciplinary action would remedy the effects of the violation on the complainant and the program and operations of the Peace Corps.
- (d) In determining whether extraordinary circumstances exist, the Review Panel and the Regional Director may not consider the character, performance, or general service history of the Victim and Accused V/T.
- (e) If extraordinary circumstances warrant the imposition of disciplinary action other than administrative separation, the Regional Director must give a explanation of those circumstances in the Regional Director's decision. The detailed explanation must include an analysis of each criterion set forth in section 8.4(c). In such cases, the disciplinary action must include (at a minimum) a Corrective Action Plan or a warning letter.

9.0 Confidentiality of Records and Information

- (a) 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 MS 243 *Responding to Sexual Assault*, 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.

- (b) 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 OGC and shall be handled in accordance with the Privacy Act. Except as expressly provided in these Procedures, MS 243 *Responding to Sexual Assault*, 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.
- (c) 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 pertaining to the Complaint or to any person outside of the Peace Corps, all private information regarding the Victim, Accused V/T, and any witnesses (e.g. including, but not limited to, 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.
- (d) Notwithstanding section 9.0(b) above, any resignation in lieu of administrative separation pursuant to section 6.2 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, consistent with guidelines in MS 284 *Early Termination of Service*.