

# MS 293 Volunteer Discrimination Complaint Procedure

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## Note:

The Peace Corps' original "Volunteer Discrimination Complaint Procedure" was approved by the Directors of ACTION and Peace Corps on December 19, 1980. It was published, as required by law, as a final regulation (45 CFR 1225) in the Federal Register on January 6, 1981 and as a Peace Corps Manual Section (MS 646) on July 31, 1981.

The attached is the revised final regulation as published in the Federal Register after being jointly proposed by the Peace Corps with the Corporation for National and Community Service (CNCS). The new Peace Corps rule at 22 CFR 306 is below. The final joint rule, as published in the Federal Register and including the CNCS rule at 45 CFR 1225, can be viewed in its entirety [online](#). 22 CFR 306 and 44 CFR 1225 became effective June 7, 2021.

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**Authority:** [22 U.S.C. 2501](#) *et seq.*

## **PART 306 - VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE**

### **Subpart A - General Provisions**

#### **§306.1 Purpose.**

The purpose of this part is to establish a procedure for the filing, investigation, and administrative determination of allegations of discrimination (including harassment) based on race, color, religion, sex, national origin, age (40 or over), disability or other bases provided for in applicable statutes, regulations or the Peace Corps Manual or history of participation in the Peace Corps discrimination complaint process which arise in connection with the recruitment, selection, placement, service, or termination of applicants, trainees, or volunteers. In addition, any Peace Corps applicant, trainee, or volunteer may submit an allegation of discrimination to the Peace Corps Office of Inspector General at any time, and the allegation will be processed in accordance with policy and procedures of the Office of Inspector General.

#### **§306.2 Policy.**

(a) In the recruitment, selection, placement, service, and termination of Peace Corps Trainees and Volunteers, it is the policy of the Peace Corps to provide equal opportunity for all persons and to prohibit discrimination based on race, color, religion, sex, national origin, age (40 or over), disability, and other bases provided for in applicable statutes,

regulations or the Peace Corps Manual, or history of participation in the Peace Corps discrimination complaint process.

(b) It is the policy of the Peace Corps, upon a determination that such prohibited discrimination has occurred, to take appropriate corrective action to remedy the discrimination and to prevent its recurrence.

(c) It is the policy of the Peace Corps that all agency staff must cooperate in the investigation of a complaint. Volunteers and trainees are strongly encouraged to cooperate.

### **§306.3 Definitions.**

Unless the context requires otherwise, in this part:

*Applicant* means a person who has submitted a completed application required for consideration of eligibility for Peace Corps Volunteer service. “Applicant” may also mean a person who alleges that the actions of agency personnel precluded them from submitting such an application or any other information reasonably required by the appropriate personnel as necessary for a determination of the individual's eligibility for Volunteer service.

*Complainant* means an aggrieved applicant, trainee, or volunteer who believes they have been subject to prohibited discrimination and files a formal complaint.

*Complaint* means a written statement signed by a Complainant alleging prohibited discrimination and submitted to the OCRD Director, as described in § 306.9(a).

*Counselor* means an official designated by the OCRD Director to perform an informal inquiry focused on possible resolution as detailed in this Part.

*Director* means the Director of the Peace Corps.

*File(d) Date* means the date a Complaint is received by the appropriate agency official.

*Final Agency Decision (FAD)* means the Peace Corps' final written determination on a complaint.

*OCRD Director* means the Director of the Peace Corps' Office of Civil Rights and Diversity.

*Prohibited discrimination* means discrimination (including harassment) on the basis of race, color, religion, sex, national origin, age (40 or over), disability, or other bases provided for in applicable statutes, regulations or the Peace Corps Manual, or history of participation in the Peace Corps discrimination complaint process.

*Trainee* means a person who has accepted an invitation issued by the Peace Corps and has registered for Peace Corps staging.

*Volunteer* means a person who has taken the oath of service and been sworn in for Peace Corps service, whether or not this person is still in Peace Corps service.

#### **§306.4 Coverage.**

(a) Except as set out below, these procedures apply to all Peace Corps applicants, trainees, and volunteers.

(1) To the extent that a trainee or volunteer makes a complaint containing an allegation of prohibited discrimination in connection with conduct that constitutes sexual misconduct as defined in the Peace Corps' policy on volunteer sexual misconduct.

(2) When an applicant, trainee, or volunteer makes a complaint which contains an allegation of prohibited discrimination in connection with an early termination or other

administrative procedure of the agency, only the allegation of prohibited discrimination will be processed under this part. At the discretion of the OCRD Director, additional allegations or claims material to the complaint may be consolidated with the discrimination complaint for processing under these regulations. Any issues which are not so consolidated will continue to be processed under those procedures pursuant to which they were originally raised.

(3) Complaints of retaliation in connection with allegations made under the Peace Corps Volunteer Confidentiality Protection policy shall be handled in accordance with that policy.

(b) The OCRD Director has the discretion to consolidate complaints from different applicants, Trainees, or Volunteers that allege common underlying facts and similar claims.

(c) These regulations do not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Coverage under these rules does not constitute acceptance by the agency or the United States Government of jurisdiction for judicial review.

### **§306.5 Representation.**

Any aggrieved party may be assisted in all stages of these procedures under this Part by an attorney or non-staff representative of his or her own choosing at his or her own expense. An aggrieved party must immediately inform the agency if representation is retained.

### **§306.6 Freedom from retaliation.**

Aggrieved parties, their representatives, and witnesses will be free from retaliation at any stage in the presentation and processing of a complaint under this section, including the counseling stage described in 306.8 of this Part, or any time thereafter.

### **§306.7 Review of allegations of retaliation.**

(a) An aggrieved party, his or her representative, or a witness who alleges retaliation in connection with the presentation of a complaint under this part, may, if covered by this Part, request in writing that the allegation be reviewed as an act of discrimination subject to the procedures described in subpart B or that the allegation be considered as an issue in the complaint at hand. The determination whether to consider the complaint in the same or a separate proceeding is within the discretion of the OCRD Director.

## **Subpart B - Processing Individual Complaints of Discrimination**

### **§306.8 Pre-complaint procedure.**

(a) Any applicant, trainee or volunteer who believes that he or she has been subject to prohibited discrimination must bring such allegations to the attention of OCRD within 60 days of the alleged discrimination, at which point a Counselor will be assigned to attempt to resolve them.

(b) The pre-complaint procedure is intended to determine whether the concerns of the aggrieved party can be resolved to the mutual satisfaction of the aggrieved party and the agency without the filing of a formal complaint.

(c) The counselor serves as a neutral party, to gather a limited amount of information from the aggrieved party about his or her allegations, explain to the aggrieved

party his or her rights, obtain information to determine the applicability of this regulation, and where appropriate, attempt an informal resolution among relevant parties.

(d) The amount of information that the counselor gathers from the agency is limited to information needed to reach an informal resolution to the mutual satisfaction of the aggrieved party and the agency.

(e) The counselor will keep a written record of his or her activities, which will be submitted to the OCRD Director as a counselor's report.

(f) To the extent necessary to reach an informal resolution, the counselor may reveal to relevant agency officials the identity of the aggrieved party. In the event that the aggrieved party requests that the Counselor not share his or her identity with agency officials, the Counselor will not reveal the identity of the aggrieved party (or information that could be used to easily identify the aggrieved party) outside of OCRD. If appropriate, the Counselor should explain to the aggrieved party that an informal resolution and/or the scope of relief available may be limited as a result of the request for anonymity.

(g) The pre-complaint process should be completed within 30 days, but the OCRD Director may extend the period upon request of the aggrieved party or the agency for good cause shown.

(h) If, after inquiry and counseling, an informal resolution to the allegation is not reached, the Counselor will notify the aggrieved party in writing of the right to file a formal complaint of discrimination with the OCRD Director within 30 calendar days of the aggrieved party's receipt of the notice.

(i) As an alternative to assignment of a Counselor as described above, the aggrieved party may ask for Alternative Dispute Resolution as set out in the Peace Corps' policy. In

such a case, the parties have 90 days to attempt in good faith to reach an informal resolution of the allegation. At any time during the course of Alternative Dispute Resolution, the aggrieved party or the Responsible Management Official (or their Supervisor), in consultation with the Office of the General Counsel, may terminate those proceedings.

### **§306.9 Complaint procedure.**

(a) An applicant, trainee or volunteer who wishes to file a formal complaint must do so within 30 days of receiving the notice set out in 306.8(g) above, by filing a signed complaint in writing with OCRD. A complaint must set forth specifically:

(1) A detailed description, including names and dates, if possible, of the actions of the Peace Corps officials or other persons which resulted in the alleged prohibited discrimination;

(2) The manner in which the Peace Corps' action directly affected the complainant;  
and

(3) The relief sought.

(b) A complaint that does not conform to the above requirements will nevertheless be deemed to have been received by the OCRD, and the complainant will be notified of the steps necessary to correct the deficiencies of the complaint. The complainant will have 30 days from receipt of notification that the complaint is defective to submit an amended complaint.



(c) The OCRD Director must accept a complaint if the process set forth above has been followed, and the complaint states a covered claim of prohibited discrimination. The OCRD Director may extend the time limits set out above:

(1) When the complainant shows that they were not notified of the time limits and were not otherwise aware of them;

(2) The complainant shows that they were prevented by circumstances beyond their control from submitting the matter in a timely fashion; or

(3) For other reasons considered sufficient by the OCRD Director.

(d) At any time during the complaint procedure, the OCRD Director may dismiss a complaint based on the aggrieved party's failure to prosecute the complaint. However, this action may be taken only after:

(1) The OCRD Director has made a written request, including notice of the proposed dismissal, that the Complainant provide certain information or otherwise proceed with the complaint; and

(2) 30 days have elapsed since the sending of the request.

If the complaint is rejected for failure to meet one or more of the requirements set out in the procedure outlined in 306.8 or is dismissed, the OCRD Director will inform the aggrieved party in writing of this FAD, advising that the Peace Corps will take no further action.

(e) Upon acceptance of the complaint and receipt of the Counselor's report, the OCRD Director will provide for a prompt impartial investigation of the complaint. The OCRD may employ a Peace Corps employee or external party to conduct the investigation. If a Peace Corps employee is selected to investigate the complaint, the person assigned to

investigate the complaint may not occupy a position in the agency which is, directly or indirectly, under the jurisdiction of the head of that part of the agency in which the complaint arose. The investigation will include a review of the circumstances under which the alleged discrimination occurred, and any other circumstances which may constitute, or appear to constitute, discrimination against the complainant.

(f) Agency officials responsible for providing information relating to the complaint to the investigator will be provided such information about the complaint as they may need in order to respond appropriately. For example, responding agency officials who have a need to know may be provided with information including the identity of the complainant and statements of the alleged discriminatory basis and adverse action.

(g) In cases where sensitive and/or protected information about applicants, trainees, or volunteers (other than the complainant) is requested or involved, agency officials may only disclose such information that is directly relevant to claim(s) being investigated, and must ensure that such information is handled in such a manner that the privacy of the applicants, trainees, or volunteers in question is fully protected, in accordance with the Peace Corps' policy on confidentiality of volunteer information.

(h) Every agency official responsible for providing information relating to the complaint to the investigator may at any point consult the Office of the General Counsel and/or his or her supervisor, unless the supervisor is alleged to have been involved in the conduct that is the subject of the complaint. Agency officials responsible for providing information to the investigator shall only provide information based on personal knowledge, and should not seek to align or conform his or her statement with that of another responding agency official.

(i) The investigator will compile a report of investigation (ROI) and forward the ROI to the OCRD Director. The OCRD Director will arrange for preparation of a draft FAD, which will be in writing, state the reasons underlying the decision, recommend corrective action if and as appropriate, and advise the complainant of the right to appeal the recommended FAD to the Peace Corps Director, or designee. To the extent feasible, this will be completed within 120 days of the filing of the complaint. However, the OCRD Director has discretion to extend the period.

(j) The OCRD Director will issue the proposed FAD to the complainant with a copy of the ROI.

(k) Within ten calendar days of receipt of such proposed FAD, the complainant may submit his or her appeal of the proposed disposition to the Peace Corps Director, or designee.

(l) The Peace Corps Director, or designee, will, to the extent feasible, decide the issue within 45 days of the date of receipt of the appeal. The claimant will be informed in writing of the decision and its basis and advised that it is the FAD regarding the complaint.

(m) Where a complainant does not submit a timely appeal pursuant to (k) above, the OCRD Director will issue the proposed FAD as the FAD.

(n) The OCRD Director will inform relevant management officials as to whether or not prohibited discrimination was found in the FAD.

### **§306.10 Corrective action.**

When the agency's FAD states that the aggrieved party has been subjected to prohibited discrimination, the following corrective actions may be taken:

(a) Selection as a trainee for an otherwise qualified complainant found to have been denied selection based on prohibited discrimination.

(b) Reinstatement to volunteer service for a complainant found to have been early-terminated as a result of prohibited discrimination. To the extent possible, a terminated volunteer will be placed in the same position previously held. However, reinstatement to the specific country of prior service, or to the specific position previously held is contingent on programmatic considerations, including but not limited to the continued availability of the position or program in that country, and acceptance by the host country of such placement. If the same position is deemed to be no longer available, the aggrieved party will be offered reenrollment in a position in as similar as possible circumstances to the position previously held, or will be given interrupted service status. A reenrollment may require a medical clearance and/or other clearances, and both additional training and an additional two year commitment to Volunteer service.

(c) Such other relief as may be deemed appropriate by the Peace Corps.