

MS 293 Applicant, Trainee, Volunteer Discrimination Complaint Procedure

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306 Volunteer Discrimination Complaint Procedure

Note:

The attached "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.

This regulation is currently being revised, but the revision cannot be issued as part of the Peace Corps Manual until it has been published for public comment in the Federal Register. In the meantime, the existing regulation (attached) continues in effect.

1608 Federal Register/ Vol. 46, No. 3 / Tuesday, January 6, 1981 / Rules and Regulations

Action Peace Corps 45 CFR Part 1225 Volunteer Discrimination Complaint Procedure

Agency:

ACTION and Peace Corps.

Action: Final regulation.

Summary:

This regulation establishes a procedure for the handling of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap, or political affiliation which arise in connection with the enrollment or service of full-time Volunteers in Peace Corps and ACTION.

Effective Date:

This regulation shall take effect on February 20, 1981.

For Further Information Contact:

Bart Crivella, Director, Division of Equal Opportunity, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525 (202) 254-5940.

Supplementary Information:

Section 12 of the Domestic Volunteer Service Act Amendments of 1979 (Pub. L. 96-143) extended to applicants for enrollment and Volunteers serving under both the Peace Corps Act (22 U.S.C. 2501 et seq.) and the Domestic Volunteer Service Act (42 U.S.C. 4951 et seq.) the nondiscrimination policies and authorities set forth in Section 717 of the Civil Rights Act of 1964, Title V of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. That section further directed that any remedies available to individuals under such laws, other than the right to appeal to the Civil Service Commission authorized by Section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or Volunteers.

This amendment was necessary to ensure that such Volunteers were within the scope of the nondiscrimination provisions of the three cited Acts, since those Acts apply to either employees or recipients of Federal financial assistance. Under Section 5(a) of the Peace Corps Act and Section 415 of the Domestic Volunteer Service Act, Volunteers are not deemed Federal employees except for certain stated purposes. Furthermore, such Volunteers are not treated as recipients of Federal financial assistance.

However, aware of the unique status of domestic and international Volunteers, Congress, in extending the protection of the cited Acts to the Volunteers, did not require the per se adoption of the rules, regulations, and procedures extant under such Acts, but rather required that the Director, after consultation with certain designated entities, prescribe regulations specifically tailored to the circumstances of such Volunteers.

As required by statute in prescribing these regulations, ACTION and Peace Corps have consulted with the following entities: (1) The Equal Employment Opportunity Commission (EEOC) with regard to the application of the policies set forth in Section 717 of the Civil

Right Act of 1964: (2) the Interagency Coordinating Council and the Interagency Committee on Handicapped Employees with regard to the application of the policies set forth in Title V of the Rehabilitation Act of 1973; and (3) the Secretary of Health and Human Services, with regard to the application of the policies set forth in the Age Discrimination Act of 1973. This consultation process has been completed.

The proposed rule was published in the Federal Register for comment on September 19, 1990 (45 FR 62512). The Agency has considered the public comments received and has determined to adopt the proposed regulation with certain modifications. Discussed below are the provisions of the final regulation and the major public comments received in response to the proposed rule. While this regulation has been developed with consideration of comments from the public, as a matter involving Volunteers, it is exempt from the requirements of executive Order 12044, "Improving Government Regulations."

I. Complaint Procedure

These regulations apply to the recruitment, selection, placement, service or termination of Peace Corps or ACTION applicants, Trainees, and Volunteers for full-time service in either a domestic or international program. They require that an aggrieved party who believes that he or she has been discriminated against must first meet with a Counselor to attempt an informal resolution of the matter. If this fails, a formal complaint may be filed with the Director of the Equal Opportunity Division of the Office of Compliance ACTION (EO Director). When the complaint is accepted, an investigation into the matter will be performed and submitted to both the EO Director and the complainant. The EO Director shall review the complaint file, including any additional statements provided by the complainant, and shall offer an adjustment of the complaint if it is warranted. If this adjustment is not acceptable to the complainant, or if the EO Director determines that such an offer is not warranted by the circumstances of the complaint, the file, including the EO Director's recommendation will be forwarded to the appropriate agency Director for decision. The complainant will be notified of this action and of his or her right to appeal the recommendation. Upon receipt and review of the complaint file and any additional matter submitted by the complainant, the Director shall issue a final agency decision in writing to the complainant. If the complainant is dissatisfied with the final agency decision, the complainant may file in a timely manner a civil action alleging discrimination in the appropriate U.S. District Court.

II. Discussion of Comments Received

The Agency received a total of four (4) written comments - from one of the consultative agencies, from agency officials, and from a member of the public. The majority of such comments were of a technical nature and were incorporated into the final regulations. However, four (4) substantive issues dealt with in the proposed regulations were reviewed due to public comment.

Procedure for allegations of reprisal. The Interagency Coordinating Council in its role as a

consultative agency recommended that the regulations should include a section that provides a procedure for persons alleging reprisal or retaliatory action. The proposed regulation in 1225.6 merely states that such persons will be free from restraint, coercion, discrimination, or reprisal at any stage of the complaint and pre-complaint procedure. Accordingly, 1225.7 has been added which provides a procedure whereby such complaints will be handled.

Provision of Attorney Fees. A comment was received that suggested that the presently proposed section involving the provision of attorney fees (1225.5) be expanded to authorize payment to representatives other than attorneys. After consideration, and discussion with the Equal Employment Opportunity Commission, it was determined that the provision of fees should remain limited to attorneys. This is in accordance with the EEOC guidelines in this area (interim revised regulations published April 9, 1980; 45 FR 24130-33) issued to comply with several court decisions extending the statutory provision for attorney fees in a civil action to that work done during the administrative processing of a complaint. Therefore, this final regulation has retained the authorization for attorney fees in accordance with the interim regulations of the EEOC, and in accordance with the courts' interpretation of Sections 706(k) and 717 of Title VII of the Civil Rights Act of 1964, as amended. (42 U.S.C. 2000e- 16).

Time Limitations. A comment was received from the public that suggested that a fixed time limit should be imposed for the instigation and completion of investigations to insure even and prompt agency enforcement. The Agency does not believe a fixed time limit is necessary in this circumstance for two reasons. First, the aggrieved party has the option to file a civil action in the appropriate U.S. District Court after one hundred eighty (180) calendar days from the date of filing a complaint if there has been no final agency action (1225.21). Second, given the diverse circumstances under which discrimination may be alleged due to the wide geographic area in which Peace Corps and domestic Volunteers serve, the Agency believes a fixed time limit would be impractical and that the commitment presently given in the regulations to investigate and promptly process complaints is a sufficient safeguard.

Corrective Action. As proposed, the section (1225.10) states that although the agency is committed to placing the aggrieved Volunteer in the same position held prior to his or her early termination, several programmatic considerations such as the continued availability of the position or program, and acceptance by the host country to the placement may preclude such placement. The final regulation states that if the same position is deemed no longer available, the agency will attempt to place the aggrieved party in as similar a position as possible to the original position. However, this could result in an aggrieved party being required to undergo additional training and to make a new, full-term commitment to another volunteer position. In order to lessen the inconvenience that may result from such an extension of an aggrieved party's volunteer commitment, the final regulation will allow the Volunteer to exercise the option to resign for reasons beyond his or her control. This option will qualify the Volunteer, if in service for at least a year, for a certificate of satisfactory service, which entitles him or her to the benefits of non- competitive eligibility. Accordingly, Part 1225 is added, as follows to Title 45 of the Code of Federal Regulations:

PART 1225 - Volunteer Discrimination Complaint Procedure

Subpart A - General Provisions

1225.1 Purpose.

The purpose of this part is to establish a procedure for the filing, investigation, and administrative determination of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap or political affiliation, which arise in connection with the recruitment, selection, placement, service, or termination of Peace Corps and ACTION applicants, trainees, and Volunteers for full time service.

1225.2 Policy.

It is the policy of the Peace Corps and ACTION to provide equal opportunity in all its programs for all persons and to prohibit discrimination based on race, color, national origin, religion, age, sex, handicap or political affiliation in the recruitment, selection, placement, service, and termination of Peace Corps and ACTION Volunteers. It is the policy of Peace Corps and ACTION upon determining that such prohibited discrimination has occurred, to take all necessary corrective action to remedy the discrimination, and to prevent its recurrence.

1225.3 Definitions.

Unless the context requires otherwise, in this Part:

- a. "Director" means the Director of Peace Corps for all Peace Corps applicant, trainee, or Volunteer complaints processed under this Part, or the Director of ACTION for all domestic applicant, Trainee, or Volunteer complaints processed under this Part. The term shall also refer to any designee of the respective Director.
- b. "EO Director" means the Director of the Equal Opportunity Division of the Office of Compliance, ACTION. The term shall also refer to any designee of the EO Director.
- c. "Illegal discrimination" means discrimination on the basis of race, color, national origin, religion, age, sex, handicap or political affiliation as defined in Section 5(a) of the Peace Corps Act (22 U.S.C 2504); Section 717 of the Civil Rights Act of 1964 (42 U.S.C.2000-16); Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791, et seq.); and the Age Discrimination Act of 1975 (42 U.S.C 6101, et seq.). Further clarification of the scope of matters covered

by this definition may be obtained by referring to the following regulations: Sex Discrimination: 29 CFR Part 1604; Religious Discrimination: 29 CFR Part 1605; National Origin Discrimination: 29 CFR Part 1606; Age Discrimination: 45 CFR Part 90; Handicap Discrimination: 29 CFR 1613.701-707.

- d. "Applicant" means a person who has submitted to the appropriate agency personnel a completed application required for consideration of eligibility for Peace Corps or ACTION Volunteer service. "Applicant" may also mean a person who alleges that the actions of agency personnel precluded him or her 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.
- e. "Trainee" means a person who has accepted an invitation issued by Peace Corps or ACTION and has registered for Peace Corps or ACTION training.
- f. "Volunteer" means a person who has completed successfully all necessary training; met all clearance standards; has taken, if required, the oath prescribed in either Section 5(j) of the Peace Corps Act (22 U.S.C. 2504), or Section 104(c) of the Volunteer Service Act of 1973, as amended (42 U.S.C. 104(c)) and has been enrolled as a full-time Volunteer by the appropriate agency.
- g. "Complaint" means a written statement signed by the complainant and submitted to the EO Director. A complaint shall set forth specifically and in detail:
 - 1. A description of the Peace Corps or ACTION management policy or practice, if any, giving rise to the complaint;
 - 2. A detailed description including names and dates, if possible, of the actions of the Peace Corps or ACTION officials which resulted in the alleged illegal discrimination;
 - 3. The manner in which the Peace Corps or ACTION action directly affected the complainant; and
 - 4. The relief sought.

A complaint shall be deemed filed on the date it is received by the appropriate agency official. When a complaint does not conform with the above definition, it shall nevertheless be accepted. The complainant shall be notified of the steps necessary to correct the deficiencies of the complaint. The complainant shall have 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint.

- h. "Counselor" means an official designated by the EO Director to perform the functions of conciliation as detailed in this part.
- i. "Agent" means a class member who acts for the class during the processing of a class complaint. In order to be accepted as the agent for a class

complaint, in addition to those requirements of a complaint found in 1225.3(g) of this part, the complaint must meet the requirements for a class complaint as found in Subpart C of these regulations.

1225.4 Coverage.

- a. These procedures apply to all Peace Corps or ACTION applicants, trainees, and Volunteers throughout their term of service with the Peace Corps or ACTION. When an applicant, trainee, or Volunteer makes a complaint which contains an allegation of illegal discrimination in connection with an action that would be otherwise be processed under a grievance, early termination, or other administrative system of the agency, the allegation of illegal discrimination shall be processed under this Part. At the discretion of the appropriate Director, any other issues raised may be consolidated with the discrimination complaint for processing under these regulations. Any issues which are not so consolidated shall continue to be processed under those procedures in which they were originally raised.
- b. The submission of class complaints alleging illegal discrimination as defined above will be handled in accordance with the procedure outlined in Subpart C.

1225.5 Representation.

Any aggrieved party may be represented and assisted in all stages of these procedures by an attorney or representative of his or her own choosing. An aggrieved party must immediately inform the agency if counsel is retained. Attorney fees or other appropriate relief may be awarded in the following circumstances; (a) Informal adjustment of a complaint. An informal adjustment of a complaint may include an award of attorney fees or other relief deemed appropriate by the EO Director. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney fees or costs should be awarded, or on their amount, this issue may be appealed to the appropriate Director to be determined in the manner detailed in 1225.11 of this Part. (b) Final Agency Decision. When discrimination is found, the appropriate Director shall advise the complainant that any request for attorney fees or costs must be documented and submitted for review within 20 calendar days after his or her receipt of the final agency decision. The amount of such awards shall be determined under 1225.11. In the unusual situation in which it is determined not to award attorney fees or other costs to a prevailing complainant, the appropriate Director in his or her final decision shall set forth the specific reasons thereof.

1225.6 Freedom from Reprisal.

Aggrieved parties, their representatives, and witnesses will be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage described in 1225.8 of this part, or any time thereafter.

1225.7 Review of Allegations of Reprisal.

An aggrieved party, his or her representative, or a witness who alleges restraint, interference, coercion, discrimination, or reprisal 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 individual complaint of discrimination subject to the procedures described in Subpart B or that the allegation be considered as an issue in the complaint at hand.

Subpart B - Processing Individual Complaints of Discrimination

1225.8 Precomplaint Procedure.

- a. An aggrieved person who believes that he or she has been subject to illegal discrimination shall bring such allegations to the attention of the appropriate Counselor within 30 days of the alleged discrimination to attempt to resolve them. The process for notifying the appropriate Counselor is the following:
 1. Aggrieved applicants, trainees or Volunteers who have not departed for overseas assignments, or who have returned to Washington for any administrative reason shall direct their allegations to the EO Director for assignment to an appropriate Counselor.
 2. Aggrieved trainees or Volunteers overseas shall direct their allegations to the designated Counselor for that Post.
 3. Aggrieved applicants, trainees, and Volunteers applying for, or enrolled in ACTION domestic programs shall direct their allegations to the designated Counselor for that Region.
- b. Upon receipt of the allegation, the Counselor or designee shall make whatever inquiry is deemed necessary into the facts alleged by the aggrieved party and shall counsel the aggrieved party for the purpose of attempting an informal resolution agreeable to all parties. The Counselor will keep a written record of his or her activities which will be submitted to the EO Director if a formal complaint concerning the matter is filed.
- c. If after such inquiry and counseling an informal resolution to the allegation is not reached, the Counselor shall notify the aggrieved party in writing of the right to file a complaint of discrimination with the EO Director within 15 calendar days of the aggrieved party's receipt of the notice.
- d. The Counselor shall not reveal the identity of the aggrieved party who has come to him or her for consultation, except when authorized to do so by the aggrieved party. However, the identity of the aggrieved party may be revealed once the agency has accepted a complaint of discrimination from the aggrieved party.

1225.9 Complaint Procedure.

a. *EO Director.*

1. The EO Director must accept a complaint if the process set forth above has followed, and the complaint states a charge of illegal discrimination. The agency will extend the time limits set herein (a) when the complainant shows that he or she was not notified of the time limits and was not otherwise aware of them, or (b) the complainant shows that he or she was prevented by circumstances beyond his or her control from submitting the matter in a timely fashion, or (c) for other reasons considered sufficiently by the agency. At any time during the complaint procedure, the EO Director may cancel a complaint because of failure of the aggrieved party to prosecute the complaint. If the complaint is rejected for failure to meet one or more of the requirements set out in the procedure outlined in 1225.8 or is cancelled, the EO Director shall inform the aggrieved party in writing of this Final Agency Decision: that the Peace Corps or ACTION will take no further action; and of the right, to file a civil action as described in 1225.21 of this part.
2. Upon acceptance of the complaint and receipt of the Counselor's report, the EO Director shall provide for the prompt investigation of the complaint. Whenever possible, the person assigned to investigate the complaint shall occupy a position in agency which is not, directly or indirectly, under the jurisdiction of the head of that part of the agency in which the complaint arose. The investigation shall include a thorough 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. The investigator shall compile an investigative file, which includes a summary of the investigation, recommended findings of fact and a recommended resolution of the complaint. The investigator shall forward the investigative file to the EO Director and shall provide the complainant with a copy.
3. The EO Director shall review the complaint file including any additional statements provided by the complainant, make findings of fact, and shall offer an adjustment of the complaint if the facts support the complaint. If the proposed adjustment is agreeable to all parties, the terms of the adjustment shall be reduced to writing, signed by both parties, and made part of the complaint file. A copy of the terms of the adjustment shall be provided the complainant. If the proposed adjustment of the complaint is not acceptable to the complainant, or the EO Director determines that such an offer is inappropriate, the EO Director shall forward the complaint file with a written notification of the findings of facts, and his or her recommendations of the proposed disposition of the complaint to the appropriate Director. The aggrieved party shall receive a copy of the

notification and recommendation and shall be advised of the right to appeal the recommended disposition to the appropriate Director. Within ten (10) calendar days of receipt of such notice the complainant may submit his or her appeal of the recommended disposition to the appropriate Director.

- b. *Appeal to Director.* If no timely notice of appeal is received from the aggrieved party, the appropriate Director or designee may adopt the proposed disposition as the Final Agency Decision. If the aggrieved party appeals, the appropriate Director or designee, after review of the total complaint file, shall issue a decision to the aggrieved party. The decision of the appropriate Director shall be in writing, state the reasons underlying the decision, shall be the Final Agency Decision, shall inform the aggrieved party of the right to file a civil action as described in 1225.21 of this part, and, if appropriate, designate the procedure to be followed for the award of attorney fees or costs.

1225.10 Corrective Action.

When it has been determined by Final Agency Decision that the aggrieved party has been subjected to illegal discrimination, the following corrective actions may be taken:

- a. Selection as a Trainee for aggrieved parties found to have been denied selection based on prohibited discrimination.
- b. Reappointment to Volunteer service for aggrieved parties found to have been early-terminated as a result of prohibited discrimination. To the extent possible, a Volunteer will be placed in the same position previously held. However, reassignment to the specific country of prior service, or to the specific position previously held is contingent on several programmatic considerations such as 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 a reassignment to a position in as similar circumstances to the position previously held, or to resign from service for reasons beyond his or her control. Such a reassignment may require both additional training and an additional two year commitment to Volunteer service.
- c. Provision for reasonable attorney fees and other costs incurred by the aggrieved party.
- d. Such other relief as may be deemed appropriate by the Director of Peace Corps or ACTION.

1225.11 Amount of Attorney Fees.

- a. When a decision of the agency provides for an award of attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an

affidavit executed by the attorney of record itemizing the attorney's charges for legal services. Both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the appropriate Director. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of receipt of the verified statement and accompanying affidavit, the appropriate Director shall issue a decision determining the amount of attorney fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

- b. The amount of attorney's fees shall be made in accordance with the following standards: the time and labor required, the novelty and difficulty of the questions, the skills requisite to perform the legal service properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitation imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

Subpart C - Processing Class Complaints of Discrimination

1225.12 Precomplaint Procedure.

An applicant, trainee or Volunteer who believes that he or she is among a group of present or former Peace Corps or ACTION Volunteers, trainees, or applicants for volunteer service who have been illegally discriminated against and who wants to be an agent for the class shall follow those precomplaint procedures outlined in 1225.8 of this part.

1225.13 Acceptance, Rejection or Cancellation of a Complaint.

- a. Upon receipt of a class complaint, the Counselor's report, and any other information pertaining to timeliness or other relevant circumstances related to the complaint, the EO Director shall review the file to determine whether to accept or reject the complaint, or a portion thereof, for any of the following reasons:
 1. It was not timely filed;
 2. It consist of an allegation which is identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the

agency;

3. It is not within the purview of this subpart;
4. The agent failed to consult a Counselor in a timely manner;
5. It lacks specificity and detail;
6. It was not submitted in writing or was not signed by the agent;
7. It does not meet the following prerequisites.
 - i. The class is so numerous that a consolidated complaint of the members of the class is impractical;
 - ii. There are questions of fact common to the class;
 - iii. The claims of the agent of the class are representative of the claims of the class;
 - iv. The agent of the class, or his or her representative will fairly and adequately protect the interest of the class.
- b. If an allegation is not included in the Counselor's report, the EO Director shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he or she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the EO Director may decide to reject the allegation. If the explanation is not satisfactory, the EO Director may require further counseling of the agent.
- c. If an allegation lacks specificity and detail, or if it was not submitted in writing or not signed by the agent, the EO Director shall afford the agent 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint. The EO Director may decide that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the EO Director must advise the agent how to proceed on an individual or class basis concerning these allegations.
- d. The EO Director may extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his or her representative, shows that he or she was not notified of the prescribed time limits and was not otherwise aware of them or that he or she was prevented by circumstances beyond his or her control from acting within the time limit.
- e. When appropriate, the EO Director may determine that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section than shall be construed and applied accordingly.
- f. The EO Director may cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after:
 1. The EO Director has provided the agent a written request, including notice of proposed cancellation, that he or she provide certain information or otherwise proceed with the complaint; and
 2. within 30 days of his or her receipt of the request.
- g. An agent must be informed by the EO Director in a request under paragraphs (b) or (c) of this section that his or her complaint may be rejected if the information is not provided.

1225.14 Consolidation of Complaints.

The EO Director may consolidate the complaint if it involves the same or sufficiently similar allegations as those contained in a previous complaint filed on behalf of the same class which is pending in the agency or which had been resolved or decided by the agency.

1225.15 Notification and Opting Out.

- a. Upon acceptance of a class complaint, the agency, within 30 calendar days, shall use reasonable means such as delivery, mailing, distribution, or posting, to notify all class members of the existence of the class complaint.
- b. A notice shall contain:
 1. The name of the agency or organizational segment thereof, its location and the date of acceptance of the complaint;
 2. a description of the issues accepted as part of the class complaint;
 3. an explanation that class members may remove themselves from the class by notifying the agency within 30 calendar days after issuance of the notice; and
 4. an explanation of the binding nature of the final decision or resolution of the complaint.

1225.16 Investigation and Adjustment of Complaint.

The complaint shall be processed promptly after it has been accepted. Once a class complaint has been accepted, the procedure outlined in 1225.9 of this part shall apply.

1225.17 Agency Decision.

- a. If an adjustment of the complaint cannot be made the procedures outlined in 1225.9 shall be followed by the EO Director except that any notice required to be sent to the aggrieved party shall be sent to the agent of the class or his or her representative.
- b. The Final Agency Decision on a class complaint shall be binding on all members of the class.

1225.18 Notification of Class Members of Decision.

Class members shall be notified by the agency of the final agency decision and corrective action, if any, using at the minimum, the same media employed to give notice of the existence of the class complaint. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief and of the procedures to be

followed. Notice shall be given by the Agency within ten (10) calendar days of the transmittal of its decision to the agent.

1225.19 Corrective Action.

- a. When discrimination is found. Peace Corps or ACTION must take appropriate action to eliminate or modify the policy or practice out of which such discrimination arose, and provide individual corrective action to the agent and other class members in accordance with 1225.10 of this part.
- b. When discrimination is found and a class member believes that but for that discrimination he or she would have been accepted as a Volunteer or received some other volunteer service benefit, the class member may file a written claim with the EO Director within thirty (30) calendar days notification by the agency of its decision.
- c. The claim must include a specific, detailed statement showing that the claimant is a class member who was affected by an action or matter resulting from the discriminatory policy or practice which arose not more than 30 days preceding the filing of the class complaint.
- d. The Agency shall attempt to resolve the claim within sixty (60) calendar days after the date the claim was postmarked, or in the absence of a postmark, within sixty (60) calendar days after the date it was received by the EO Director.

1225.20 Claim Appeals.

- a. If the EO Director and claimant do not agree that the claimant is a member of the class, or upon the relief to which the claimant is entitled. the EO Director shall refer the claim, with recommendations concerning it to the appropriate Director for Final Agency Decision and shall so notify the claimant. The class member may submit written evidence to the appropriate Director concerning his or her status as a member of the class. Such evidence must be submitted no later than ten (10) calendar days after receipt of referral.
- b. The appropriate Director shall decide the issue within thirty (30) days of the date of referral by the EO Director. The claimant shall be informed in writing of the decision and its basis and that it will be the Final Agency Decision of the issue.

1225.21 Statutory Rights.

- a. A Volunteer, trainee, or applicant is authorized to file a civil action in an appropriate U.S. District Court:
 1. Within thirty (30) calendar days of his or her receipt of the notice of final action taken by the agency.
 2. After one hundred eighty (180) calendar days from the date of filing a

- complaint with the agency if there has been no final agency action.
- b. For those complaints alleging discrimination that occur outside the United States, the U.S. District Court for the District of Columbia shall be deemed the appropriate forum. Signed at Washington, D.C. this 19th day of December 1980.

Sam Brown,

Director of ACTION

Richard F Celeste,

Director of Peace Corps

(FR Doc. 81-231 Filed 1-5-81: 8:45 am)

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Peace Corps

22 CFR Part 306

Volunteer Discrimination Complaint Procedure

AGENCY: Peace Corps

ACTION: Final regulation.

SUMMARY: This regulation establishes a procedure for the handling of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap, or political affiliation which arise in connection with the enrollment or service of full-time Volunteers in both Peace Corps and ACTION programs.

EFFECTIVE DATE: This part shall take effect on February 20, 1961.

FOR FURTHER INFORMATION CONTACT: Bart Crivella, Director, Division of Equal Opportunity, ACTION, 806 Connecticut Avenue NW, Washington, D.C. 20525 (202) 254-5940.

SUPPLEMENTARY INFORMATION: In a document published elsewhere in this part of today's Federal Register, ACTION issues a final regulation establishing a procedure for handling allegations of discrimination by volunteers. That regulation is codified at 45 CFR Part 1225. The proposed rule was published in the Federal Register for comment on

September 19, 1980 (45 FR 62512). As detailed in the ACTION document today, the Agency has considered comments in the formulation of its final rule. In this document, the Peace Corps adds a new part to its regulations in 22 CFR which indicates that the ACTION regulation in 45 CFR Part 1225 is applicable to Peace Corps volunteers. Signed at Washington, D.C. this 19th day of December, 1980.

Richard F. Celeste,
Peace Corps Director.

Accordingly, a new Part 306 is added to 22 CFR Chapter III to read as follows:

PART 306 - Volunteer Discrimination Complaint Procedure

Cross Reference: ACTION regulations concerning the volunteer discrimination complaint procedure, appearing in 45 CFR Part 1225, are applicable to Peace Corps volunteers.

(Secs. 417, 402 (14), 420, Pub. L. 93-113, 87 Stat. 396, 407, and 414; Sec. 5(a), Pub. L. 87-293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

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