

# MS 294 Confidentiality of Volunteer Information

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**Responsible Office:** Office of the General Counsel, Office of Global Operations, Office of Health Services, Office of Management/Freedom of Information Act and Privacy Act Office

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*MS 294 Confidentiality of Volunteer Information Guidance*

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## Attachments

Attachment A – Diagram of Peace Corps Confidentiality Structure

Attachment B – Trainee/Volunteer Registration Form (PC-1487)

Attachment C – Authorization for Disclosure of Protected Health Information (Template)

See MS 294 Guidance for Attachments C and D, which are attached thereto.

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## 1.0 Purpose

This Manual Section sets out policies designed to protect the confidentiality of sensitive information about Volunteers, Trainees, applicants and returned Volunteers to the extent possible consistent with applicable laws and effective management of Peace Corps programs. This includes policies for disclosures to designated individuals in the event of an emergency with consent of the Volunteer.

## 2.0 Authority

- (a) Freedom of Information Act (FOIA), 5 U.S.C. 552.
- (b) Peace Corps Act, 22 USC 2504(a), 2507A, 2507B, 2507F, 2507G.
- (c) Privacy Act of 1974, 5 U.S.C. 552a.
- (d) Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- (e) HIPAA Privacy Rule, 45 CFR Parts 160 and 164.

## 3.0 Definitions

For purposes of this Manual Section:

**3.1** The terms “*consent*” and “*authorization*” are interchangeable.

**3.2** “*Need to know*” means, with respect to particular information, that access by an individual to that particular information is useful in, or facilitates the efficient performance of, that individual’s official Peace Corps duties.

**3.3** “*Personally Identifiable Information (PII)*” is information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other information that is linked or linkable to a specific individual.

**3.4** “*Protected health information*” includes any PII relating to the past, present or future physical or mental health or condition of a Volunteer, the provision of health care to such Volunteer or the past, present or future payment for the provision of health care to such Volunteer which is contained in such Volunteer’s Peace Corps health record or which has otherwise been created or received by staff in the Office of Health Services, a Peace Corps Medical Officer (PCMO), or another health care provider or professional providing care to a Volunteer.

**3.5** ***“Protected Volunteer information”*** is PII that includes:

- (a) any Protected health information;
- (b) information relating to a sexual assault committed against a Volunteer as set out in MS 243 *Responding to Sexual Assault*;
- (c) any information relating to an allegation or concern reported by a Volunteer pursuant to MS 271 *Confidentiality Protection*;
- (d) information related to stalking of a Volunteer, as set out in MS 242 *Stalking of a Volunteer*; and
- (e) any other category of Sensitive Volunteer information that requires special protection and is designated as Protected Volunteer information in any Peace Corps Manual Section or the additional guidance referred to in 7.0.

**3.6** ***“Public Volunteer information”*** means the name, country of service and dates of service for a current or former Peace Corps Volunteer or Trainee. This information is considered public information and may be disclosed to any person upon request and to the public as the Peace Corps deems appropriate. No information about an applicant is Public Volunteer information.

**3.7** ***“Sensitive Volunteer information”*** means any information regarding a Volunteer that, were it contained in an agency record, would be exempt from disclosure under FOIA, 5 USC 552(b)(6), as “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” “Sensitive Volunteer information” includes, but is not limited to, any information regarding a Volunteer that is contained in a Privacy Act system of records and not subject to disclosure to the public generally. In general, Sensitive Volunteer information consists of any information regarding a Volunteer other than the Volunteer’s name, country of service, and dates of service. Examples include (but are not limited to) a Volunteer’s contact information, information about a Volunteer’s conduct, information about the quality of a Volunteer’s performance, a Volunteer’s travel plans or location, and ability to perform Peace Corps assignments or other activities.

**3.8** ***“Specific need to know”*** means, with respect to particular information, that a Peace Corps staff member is unable to perform a specific task that is part of that individual’s official Peace Corps duties without knowledge of that particular information.

**3.9** ***“Staff members”*** includes Peace Corps employees, contractors, consultants, interns and others providing voluntary services. It does not include Volunteers or Volunteer Leaders.

**3.10** ***“Volunteer”*** includes a Trainee, a Volunteer, a returned Volunteer or, as appropriate, an applicant for Peace Corps Volunteer service.

## **4.0 Policies**

### **4.1 General**

- (a) Staff members are expected to protect the confidentiality of Sensitive and Protected Volunteer information to the greatest extent possible consistent with applicable laws and effective management of Peace Corps programs. For a diagram of the structure of the Peace Corps policy, see Attachment A.
- (b) Where more than one Manual Section applies to the disclosure of particular Volunteer information, the most restrictive provision controls, except with respect to requests by the Office of the Inspector General (OIG) for information in accordance with MS 861 *Office of Inspector General*. Staff members must provide OIG with access to all documents, information and records requested by OIG.

### **4.2 Sensitive Volunteer Information**

#### **4.2.1 Disclosure within the Peace Corps**

Staff members may disclose Sensitive Volunteer information that is not Protected Volunteer information to another staff member who has a need to know the information to perform Peace Corps duties. See section 4.3 below for policies relating to Protected Volunteer Information.

#### **4.2.2 Disclosures to Other Volunteers**

A staff member may not disclose any Sensitive Volunteer information about a Volunteer to another Volunteer without the express written consent of the Volunteer to whom the information pertains unless the recipient has a specific need to know the information to perform specific tasks on behalf of the Peace Corps. Sensitive information may be disclosed to Volunteer Leaders or those acting in that role in emergencies who need to know the information to perform their Volunteer Leader duties. See also MS 202 *Volunteer Leaders* Subsection 4.6 and MS 294 Guidance at 4.8(c).

#### **4.2.3 Disclosures Outside of the Peace Corps**

Disclosures of Sensitive Volunteer information to individuals or entities outside of the Peace Corps are governed by 22 CFR Part 308 *Implementation of the Privacy Act of 1974*; 22 CFR Part 303 *Procedures for Disclosure of Information Under the Freedom of Information Act*; MS 897 *Privacy Act Administration*, Attachment B; and other Peace Corps policies. The guidance referred to in 7.0 discusses some specific situations in which disclosures of Sensitive Volunteer information may be made outside of the Peace Corps. In all other situations, staff members are strongly encouraged to consult with the Office of the General Counsel (OGC) and the Privacy Act Officer prior to disclosure.

#### **4.2.4 Authorization for disclosure of Sensitive Volunteer Information**

A Volunteer about whom the Peace Corps has Sensitive Volunteer information may also authorize in writing the disclosure by staff members of any such Sensitive Volunteer

information. Staff members may request such an authorization, but except where otherwise provided for (e.g., MS 262 *Peace Corps Medical Services Program* 3.0(c)), they may not require it. Where such information would not otherwise be disclosable under this policy or the associated Guidance, staff members must comply with any limitation or restrictions imposed by the Volunteer in such authorization. For information about authorizations/consents, see MS 294 Guidance at 3.4.

#### **4.2.5 Storage of Sensitive Volunteer Information**

Sensitive Volunteer information should, to the extent reasonably feasible, be stored in a manner that gives access only to those categories of staff who may have a need to know that Sensitive Volunteer information. Staff members have an obligation not to access specific Sensitive Volunteer information that they have no need to know to perform their Peace Corps duties.

### **4.3 Protected Volunteer Information**

#### **4.3.1 Disclosure within the Peace Corps**

- (a) A staff member may not disclose Protected Volunteer information to another staff member unless the recipient has a specific need to know that Protected Volunteer information or the Volunteer has provided express written consent.
- (b) Any disclosure by a staff member of Protected Volunteer information must be only the minimum necessary for the recipient to perform the required tasks.
- (c) Any staff member who has concerns as to whether another staff member has a specific need to know particular Protected Volunteer information should consult with his or her supervisor before disclosing such Protected Volunteer information and follow the instructions of the supervisor concerning the disclosure of such information. In the case of a PCMO, his or her supervisor for this purpose is the Director of the Office of Medical Services. In case of doubt, supervisors should consult with OGC.

#### **4.3.2 Disclosure to other Volunteers**

A staff member may not disclose Protected Volunteer information about a Volunteer to another Volunteer without the express written consent of the Volunteer to whom the information pertains, unless it is necessary in an emergency to protect a Volunteer's health or safety.

#### **4.3.3 Disclosure Outside of the Peace Corps**

Disclosures of Protected Volunteer information to individuals or entities outside of the Peace Corps are governed by 22 CFR Part 308 *Implementation of the Privacy Act of 1974*; 22 CFR Part 303 *Procedures for Disclosure of Information Under the Freedom of Information Act*; 45 CFR Parts 160 and 164; MS 897 *Privacy Act Administration*, Attachment B; MS 269 *HIPAA Administration*; and other Peace Corps policies. The guidance referred to in 7.0 discusses some specific situations in which disclosures of Protected Volunteer information may be made outside of the Peace Corps. In all other situations, staff members are expected to consult with OGC prior to disclosure.

#### **4.3.4 Authorization for Disclosure of Protected Volunteer Information**

A Volunteer about whom the Peace Corps has Protected Volunteer information may also authorize in writing the disclosure by staff members of any such information. Staff members may request such an authorization, but except where otherwise provided for (e.g., MS 262.3.3), they may not require it. Where such information would not otherwise be disclosable under this policy or the associated Guidance, staff members must comply with any limitation or restrictions imposed by the Volunteer in such authorization. For information about authorizations/consents, see Guidance at 3.4.

#### **4.3.5 Storage of Protected Volunteer Information**

Protected Volunteer information must be stored in a manner that permits access only to those categories of staff who have a specific need to know that Protected Volunteer information. Staff members have an obligation not to access specific Protected Volunteer information that they have no specific need to know.

#### **4.4 Disclosures to Designated Individuals in the Event of an Emergency with Consent of the Volunteer**

- (a) Family members and friends of Volunteers are considered members of the public. Sensitive and Protected Volunteer information should not be disclosed to any member of the Volunteer's family, any friend of the Volunteer or any other person unless the Volunteer has given express written consent for the disclosure to those individuals. The confidentiality of the Volunteer must be respected, even in the face of concern expressed by family members and friends.
- (b) The Volunteer may also have listed on Form PC-1487 *Trainee/Volunteer Registration Form* (see Attachment B) one or more individuals whom the Peace Corps is also authorized to notify in case of an emergency (emergency contact(s)), even when the Volunteer has not died and is not otherwise incapacitated. In that case, the Volunteer has given express written consent to notify the individuals listed by the Volunteer, and the Peace Corps may decide how and when to make such notification. Where the Volunteer is available for consultation, the Peace Corps should consult with the Volunteer before notifying a listed individual.
- (c) A decision to notify an individual listed by a Volunteer on Form PC-1487 in case of an emergency involving that Volunteer, except in the case of the death of a Volunteer (see MS 265 *Death of a Volunteer* Subsection 6.1), must be made by the Associate Director of the Office of Health Services (AD/OHS), or Director of the Office of Medical Services (D/OMS), after consultation with OGC. The AD/OHS or D/OMS may designate other staff, as appropriate, to communicate with the Volunteer's next of kin/designated representative or emergency contact(s) listed on Form PC-1487 or its equivalent, which provides the required express written consent for disclosure of information to the specific persons listed by the Volunteer. In making a designation, the AD/OHS must ensure that any medical or mental health information is provided by a clinician.

- (d) Where any other family member or friend requests information about a Volunteer, staff members are encouraged to tell the family member or friend that the Peace Corps will try to notify the Volunteer of the family member's or friend's request for information, but that it will be the choice of the Volunteer whether or not to respond. Where the Volunteer is incapacitated in such a situation, the designated staff member may notify the next-of-kin/designated representative of the request. All unauthorized third parties when seeking records or information about an individual, shall be referred to the FOIA and Privacy Act Office.
- (e) The designated staff member in communication with an individual listed on Form PC-1487 or its equivalent should document a written record of the communications and should inform the Director (or their designee) of all communications it has with the Volunteer's next of kin/designated representative or emergency contact(s) listed on Form PC-1487 or its equivalent, including communications through email.

#### **4.5 Access to a Volunteer's Own Sensitive or Protected Volunteer Information**

Nothing in this Manual Section prevents disclosure to a Volunteer of any information that the Peace Corps maintains about that Volunteer. Access to such information is governed by 22 CFR Part 308 *Implementation of the Privacy Act of 1974*; MS 269 *HIPAA Administration*; and MS 897 *Privacy Act Administration*.

### **5.0 Training**

- (a) All staff members who have access to Sensitive or Protected Volunteer information must have training on protecting the confidentiality of and proper handling of such information. The FOIA and Privacy Act Office will be responsible for developing such training. The Office of Staff Learning and Development and the Office of Global Operations are responsible for ensuring that staff receive such training.
- (b) Volunteers must receive information before or at pre-service training about how their Sensitive and Protected Volunteer information will be handled by the Peace Corps. Such information will be developed by the FOIA and Privacy Act Office and the Office of Global Operations.

### **6.0 Violations**

Any staff member who accesses or discloses Sensitive or Protected Volunteer information in violation of this Manual Section may be subject to disciplinary action, up to and including adverse personnel or administrative actions, as well as criminal penalties under the Privacy Act.

### **7.0 Guidance**

Additional guidance regarding the handling of Sensitive or Protected Volunteer information in general or a particular category of Sensitive or Protected Volunteer information may be set forth in guidance implementing this Manual Section. Any such guidance must be approved by the

Office of Global Operations, the Office of Safety and Security, the Office of Health Services, the FOIA and Privacy Act Office and OGC.

## **8.0 Effective Date**

This Manual Section shall become effective on issuance.