

MS 294 Confidentiality of Volunteer Information Guidance

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Attachments

Attachment A – Diagram of Peace Corps Confidentiality Structure

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

Attachment C – Authorization for Disclosure of Non-Public Volunteer Information (Template)

1.0 General

- (a) This document sets out guidance regarding the handling, in accordance with MS 294 *Confidentiality of Volunteer Information*, of Sensitive or Protected Volunteer information in general, as well as of particular categories of Sensitive or Protected information.
- (b) Staff members are required to follow the guidance set out below. Deviations from this guidance should, to the extent feasible, be discussed with and approved by the Office of the General Counsel (OGC) prior to any deviation.

2.0 Definitions

Section 3.0 Definitions of MS 294 *Confidentiality of Volunteer Information* provides definitions for a number of terms, including “Public Volunteer information,” “Sensitive Volunteer information” and “Protected Volunteer information.” Those defined terms have the same meanings in this guidance.

- (a) **Public Volunteer information** means the name, country of service and dates of service for current and former Peace Corps Volunteers/Trainees. 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.
- (b) **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) Volunteer 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. See also MS 294.3.6.
- (c) **Protected Volunteer information** is a subset of Sensitive Volunteer information and consists of information regarding a Volunteer that requires special protection due to its particularly private or confidential nature or that is subject to specific legal protection. Examples include (but are not limited to) information relating to a Volunteer’s physical

or mental health or medical treatment received by a Volunteer, certain information relating to a sexual assault or stalking, and information relating to Volunteer allegations. See also MS 294.3.4.

3.0 Guidance Applicable to All Categories of Non-Public Volunteer Information

3.1 Disclosures Outside of the Peace Corps

- (a) Sensitive and Protected Volunteer information may only be disclosed to individuals or entities outside the agency if that disclosure is authorized by law and by Peace Corps policy.
- (b) The rules governing permitted disclosures are complicated and often depend on the particular situation. Unauthorized disclosures can result in criminal liability and administrative discipline.
- (c) Before disclosing any Protected Volunteer information to anyone outside of the Peace Corps in situations not specifically mentioned in this guidance, staff members are expected to consult with OGC. See also section 4.1.4 below.
- (d) Before disclosing any other Sensitive Volunteer information to anyone outside of the Peace Corps in situations not specifically mentioned in this guidance, staff members are strongly encouraged to consult with OGC. See also section 4.8 below.

3.2 Disclosures to Other Volunteers

- (a) Peace Corps Volunteers (including Volunteer Leaders) are not staff members. Sensitive Volunteer information regarding one Volunteer may be disclosed by staff to another Volunteer only if (i) the recipient has a specific need to know the information to perform a task on behalf of the Peace Corps and (ii) the information is not Protected Volunteer information. For example, a Volunteer serving as a warden for the post emergency action plan may need contact information for certain other Volunteers in order to perform warden duties. Before disclosing Sensitive Volunteer information to a Volunteer, a staff member should expressly consider whether the recipient is able to perform tasks on behalf of the Peace Corps without the information.
- (b) Protected Volunteer information regarding one Volunteer should never be disclosed to another Volunteer without the express written consent of the first Volunteer, unless it is necessary in an emergency to protect a Volunteer's health or safety
- (c) As set out in paragraph 4.6 of MS 202 *Volunteer Leaders*, Volunteer Leaders receiving sensitive information in connection with their Volunteer Leader duties are subject to the same obligations to maintain the confidentiality of Sensitive and Protected Volunteer information as are staff members.

- (d) Volunteers who are not Volunteer Leaders do not have a legal obligation to maintain the confidentiality of Sensitive or Protected Volunteer information they get from other Volunteers, but should be strongly encouraged to do so.

3.3 Disclosures to Family Members and Friends of Volunteers

- (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) If a Volunteer dies, is incapacitated or is otherwise unable to make decisions (and thus is unable to provide consent), staff members may notify the individual designated by the Volunteer as the Volunteer's next of kin/designated representative on Form PC-1487 *Trainee/Volunteer Registration Form* or its equivalent. Form PC-1487 provides the required express written consent for disclosure of information to the specific persons listed by the Volunteer.
- (c) The Volunteer may also have listed on Form PC-1487 one or more individuals whom the Peace Corps is authorized to notify in case of an emergency, 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. Such a decision to notify an individual listed by a Volunteer on Form PC-1487 in case of an emergency involving that Volunteer must be made by the applicable Regional Director, Associate Director/Office of Health Services, or Director, Office of Medical Services, after consultation with OGC. Where the Volunteer is available, the Peace Corps should consult with the Volunteer before notifying a listed individual.
- (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 to respond. Where the Volunteer is incapacitated in such a situation, the staff member may notify the next-of-kin/designated representative of the request.

3.4 Required Form of Consent/Authorization for Disclosure

- (a) Information about a Volunteer not otherwise disclosable may be disclosed with the Volunteer's prior express written consent.
 - (1) Authorizations relating to Protected Health information as defined in section 4.1.1 below should be consistent with Attachment A.
 - (2) Authorizations to disclose other Protected Volunteer information or to disclose Sensitive Volunteer information should include a general description of the

information that is being disclosed and the intended recipient(s). See Attachment B for a template.

- (3) Written consent may be provided by email or other electronic means, as long as the staff member making the disclosure has a reasonable belief that the consent came from the Volunteer.
- (b) Where it is infeasible to obtain prior written consent from the Volunteer, a staff member may disclose the information based on the Volunteer's prior verbal consent for disclosure. However, the staff member must document the verbal consent as soon as possible thereafter and obtain written confirmation of the verbal consent from the Volunteer. Failure to do so may be considered a Privacy Act violation, and in the case of Protected Health information, may also be considered a violation of the Health Insurance Portability and Accountability Act (HIPAA).
- (c) Staff may ask Volunteers to authorize disclosure beyond what is permitted under MS 294 and this Guidance. For example, staff may ask Volunteers for written consent to share contact information or biographical information beyond what is in the Application resume with other Volunteers, host families or community members. See also section 4.8 below. However, except where otherwise provided for (e.g., MS 262.3.3), such consent may not be required.

4.0 Guidance Applicable to Particular Categories of Information

4.1 Protected Health Information

4.1.1 General Guidance on Disclosure of Protected Health Information

- (a) For the purposes of MS 294 and this guidance, Protected health information includes only information relating to 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 PCMO, or another health care provider or professional providing care to a Volunteer.

It does not include other information disclosed by the Volunteer to Peace Corps medical staff during the course of seeking or receiving medical treatment or care that is not related to care or treatment being sought or provided. Such information is "Sensitive information" and is to be handled accordingly, in conformance with section 4.2 below.

- (b) Protected health information is considered to be Protected Volunteer information. The policy on disclosure of Protected Volunteer information in MS 294 applies to Protected health information.
- (c) The HIPAA Privacy Rule (45 CFR Parts 160 and 164) sets out specific rules that govern disclosure of Protected health information outside of the Peace Corps. All staff members

must comply with those rules. This guidance is designed to help ensure that staff members disclose Protected health information only when the disclosure is permitted by law. See also section 4.1.4 below.

- (d) Even if the law permits a disclosure of Protected health information, the Peace Corps seeks to balance:
 - (1) each Volunteer's privacy interest in preserving the confidentiality of Protected health information;
 - (2) the goal of encouraging Volunteers to seek prompt treatment for medical conditions, to be open and honest with Peace Corps medical staff and to provide Peace Corps medical staff with the information that they need in order to provide Volunteers with proper care and treatment; and
 - (3) the overall needs of the Peace Corps to effectively administer its programs and to protect the health, safety and security of all Volunteers.
- (e) Even if a disclosure of Protected health information is permitted by this guidance, staff members must make reasonable efforts to disclose the minimum amount of Protected health information necessary to accomplish the intended purpose of the disclosure, except when Protected health information is being disclosed to Peace Corps medical staff, to other health care providers for purposes of care or treatment of the Volunteer, or to the OIG.

4.1.2 Authorization to Disclose Protected Health Information

- (a) **Authorization for disclosure to Peace Corps staff members.** Before being considered for Peace Corps service, applicants are required to sign an Authorization for Peace Corps Use of Medical Information in the form of Attachment A to MS 262 *Peace Corps Medical Services Program*. That Authorization authorizes a staff member to disclose Protected health information to another staff member who has a specific need to know that information for the purpose of performing his or her duties in connection with the administration of the Peace Corps program. Specific examples of permitted disclosures are set out in sub-section 4.1.3 below.
- (b) **Authorization for disclosure outside of the Peace Corps.** Attachment A to MS 262 applies only to disclosure of Protected health information to Peace Corps staff members. However, certain disclosures to individuals and entities outside of the Peace Corps are permitted as set out in section 4.1.4 below. Unless a disclosure is permitted in section 4.1.4 below, a staff member may not disclose any Protected health information to any individual or entity outside of the Peace Corps unless the Volunteer has provided a written authorization for such disclosure in the form of Attachment A to this Guidance and in accordance with section 3.4(a)(1) above.

4.1.3 Permitted Disclosures of Protected Health Information within the Peace Corps

- (a) **Disclosures within OHS.** Protected health information regarding a Volunteer may be disclosed to medical staff in the Office of Health Services (including medical staff at post) if they are treating or involved in the medical treatment or care of the Volunteer and they have a need for that information for the provision of the medical treatment or care. Protected health information may also be disclosed to staff in the Office of Health Services as required for health care operations, including but not limited to quality improvement and evaluation, training of Peace Corps medical staff, or as otherwise permitted under HIPAA regulations or as specifically needed to administer the Peace Corps medical program.
- (b) **Disclosures to non-medical staff for payment purposes.** Protected health information regarding a Volunteer may be disclosed to staff members who are involved in arranging payment for medical treatment or care of the Volunteer and have a specific need to know that information for payment purposes.
- (c) **Disclosures to OGC.** Protected health information regarding a Volunteer may be disclosed to lawyers in OGC if they are involved in providing legal advice and counsel on matters related to the provision of health care or related services to the Volunteer or otherwise need such information for the provision of legal advice and counsel to the agency.
- (d) **Disclosures to OIG.** Protected health information regarding a Volunteer (other than certain information from a restricted report of a sexual assault as provided under MS 243 *Responding to Sexual Assault*) may be disclosed to the Office of Inspector General (OIG) if OIG requests that information pursuant to MS 861 *Office of Inspector General*.
- (e) **Evidence of drug use.** Peace Corps medical staff are required to disclose to the Country Director or designee evidence of drug use by a Volunteer in a manner not authorized for medical purposes.
- (f) **Medical accommodations.** Peace Corps medical staff may disclose to a Country Director or other staff that a Volunteer requires a medical accommodation and the underlying medical reason for the accommodation only where there is a reason why the Country Director or other staff specifically need to know this information with respect to a particular Volunteer. Examples of such situations include (but are not limited to) the following:
 - (1) the accommodated Volunteer will need additional non-medical support from Peace Corps staff;
 - (2) the accommodation would require placing the Volunteer in a particular type of location or otherwise restrict the Volunteer's ability to perform particular tasks; or
 - (3) the accommodation may require special arrangements to ensure that the Volunteer can be evacuated in an emergency.

The PCMO or other medical staff may disclose to staff members with a need to know that a Volunteer will be away from his or her site, will need to refrain from performing particular tasks or has other limitations for medical reasons.

- (g) **Medevacs.** If a Volunteer is to be medevac'd, the Country Director should be informed that the Volunteer is being medevac'd and, to the extent known, the likelihood of and timeframe for the Volunteer's return to post. The Country Director or designee may also be informed of any travel or other logistical arrangements required for the medevac due to the condition of the Volunteer. While the fact of the medevac may be disclosed to the Country Director and other staff members at post, there is generally no specific need for the Country Director or any other staff member at post (other than the PCMO or other medical staff) to know the medical reason for the medevac. Therefore, in the absence of a specific justification, the medical reason for the medevac should not be disclosed to the Country Director or any other staff member at post.

A Volunteer being medevac'd should be accompanied by a non-medical escort only if the non-medical escort can provide appropriate support to the Volunteer without needing any Protected health information or the Volunteer consents in writing to the disclosure of Protected health information to the non-medical escort.

- (h) **Sexual assaults.** If a Volunteer discloses to a PCMO (or other Peace Corps medical staff) that the Volunteer has been the victim of a sexual assault, the PCMO should refer to MS 243 *Responding to Sexual Assault* and the MS 243 *Procedures for Responding to Sexual Assault*.
- (i) **Information relating to significant risk.** The PCMO or other Peace Corps medical staff may disclose Protected health information to a Country Director or other staff where the PCMO determines that there may be a significant risk to health or safety of the Volunteer or others or to the Peace Corps' reputation in country. These determinations will generally be case-specific, and may vary post to post depending on legal, safety, health or other host country environmental factors. CDs, PCMOs and Safety and Security Managers are expected to discuss such factors with each other in advance at least annually. Moreover, PCMOs and CDs are strongly encouraged to consult with OHS, Region, the Office of Safety and Security (OSS) and OGC in making these determinations.
- (j) **Misleading, inaccurate or incomplete medical information.** If it is determined that a Volunteer, while still an applicant, provided misleading, inaccurate, or incomplete medical information to the Peace Corps that could have affected the Peace Corps' review or consideration of that applicant, MS 284.7.2 *Early Termination of Service* requires that the Country Director be notified and given an opportunity to comment on the Volunteer's conduct and performance before the Office of Health Services takes action to administratively separate the Volunteer. In the absence of a specific justification, however, no Protected health information regarding the Volunteer should be disclosed to the Country Director in this context. See also MS 861.7.1(c)(7).

- (k) **Resolution of disagreements.** Disagreements between PCMOs and non-medical staff concerning disclosure of a Volunteer’s Protected health information should be resolved in consultation with the Region, the Office of Health Services and OGC.
- (l) **Other authorized disclosures.** Protected health information may be disclosed to Peace Corps staff in other situations where OGC, OHS and other relevant offices have determined that the recipient has a specific need to know the information.

4.1.4 Disclosures of Protected Health Information Outside of the Peace Corps

- (a) **Health Care Providers.** Protected health information regarding a Volunteer may be disclosed to health care providers outside the Peace Corps for the purpose of care or treatment of the Volunteer. Such disclosures are not subject to the “minimum necessary” standard.
- (b) **Business associates.** Protected health information may be disclosed to “business associates” with which the Peace Corps has agreements relating to payment for health care services or the provision of health care operations. Protected health information may be disclosed only to the extent necessary to arrange for payment for health care services or for the performance of health care operations.
- (c) **FECA.** Protected health information may be provided to the Department of Labor in connection with a claim by a Volunteer for benefits under the Federal Employees’ Compensation Act (FECA).
- (d) **Emergency contacts.** Protected health information may be disclosed to those individuals specifically designated by a Volunteer as emergency contacts on Form PC-1487, as set out in section 3.3 above.
- (e) **Others.** Protected health information about an individual Volunteer may be disclosed to others outside of the Peace Corps only to the extent OGC determines that such disclosure is consistent with the HIPAA Privacy Rule and other applicable law or as expressly authorized in writing by the Volunteer.

4.2 Disclosure of “Sensitive” Information Provided to a PCMO (Non-Protected Health Information)

- (a) **Non-Protected health information (other than sexual assaults)**
 - (1) As described in section 4.1.1 above, Peace Corps medical staff may receive information from a Volunteer during the course of seeking or receiving medical treatment or care that is not related to past, present or future health care. For example, this may include (among other things) information that the Volunteer has been the victim of a crime (other than a sexual assault), information about the circumstances of an injury that are not relevant to the care or treatment, information regarding another safety and security incident or concern or other information about the Volunteer’s (or someone else’s) conduct. If this information is not directly related to a past, present or future physical or mental health or

condition of the Volunteer or the provision of health care to such Volunteer, it is not “Protected health information”; it is Sensitive Volunteer information/non-protected health information. However, PCMOs should treat this Sensitive information with particular discretion as described below.

- (2) A PCMO or other medical officer may disclose non-Protected health information received from a Volunteer during the course of seeking or receiving medical care or treatment to the Country Director or other staff if the PCMO believes that disclosure of that information might be necessary to prevent or lessen a threat to the health, safety or well-being of the Volunteer or others or a risk to the reputation of the Peace Corps program in country.
 - (3) Information a PCMO receives about the health of a Volunteer from a third party other than another health professional is non-Protected health information and may be disclosed to the Country Director or other staff if the PCMO believes that disclosure of that information might be necessary to prevent or lessen a threat to the health, safety or well-being of the Volunteer or others or a risk to the reputation of the Peace Corps program in country.
 - (4) In determining whether to disclose information under (2) or (3) above, PCMOs should take into consideration the nature and severity of the threat that might be averted by disclosure of that information to the Country Director or other staff. These determinations may be case-specific, and may vary post to post depending on legal, safety, health or other host country environmental factors. CDs, PCMOs and Safety and Security Managers are expected to discuss such factors with each other in advance at least annually. Moreover, PCMOs and CDs are strongly encouraged to consult with OHS, Region, OSS and OGC in making these determinations.
- (b) **Statistical information.** Statistical information related to the occurrence of diseases, injuries or other medical conditions among Volunteers that does not identify particular Volunteers is not Protected health information.

4.3 Information Relating to a Sexual Assault

Policies and procedures for handling information relating to a sexual assault reported by a Volunteer are contained in MS 243 *Responding to Sexual Assault* and the MS 243 *Procedures for Responding to Sexual Assault*. Those policies and procedures override any conflicting provisions of MS 294.

4.4 Information Regarding a Deceased Volunteer

- (a) A deceased Volunteer’s Protected health information does not lose its legal confidentiality protections under the HIPAA Privacy Rule until 50 years following the date of death. Until that time, such information may be disclosed only to the individual designated by the Volunteer as the next of kin/designated representative on Form PC-1487 or as otherwise permitted under the HIPAA Privacy Rule or as otherwise required by law.

- (b) The confidentiality protections under the Privacy Act for other Sensitive or Protected Volunteer information lapse with the death of the Volunteer. However, before disclosing any information regarding a deceased Volunteer outside of the Peace Corps, staff members should consider the privacy interests of surviving family members and are urged to consult with OGC.

4.5 Information about Confidential Allegations

Information from a Volunteer involving an allegation under MS 271 is considered Protected Volunteer information, and may be disclosed only to other Peace Corps staff who have a specific need to know the information to address the allegation appropriately.

4.6 Information about Stalking

Information about a stalking incident involving a Volunteer is considered Protected Volunteer information, and may be disclosed only to other Peace Corps staff as authorized under MS 241 and its procedures.

4.7 Information about Volunteer Disciplinary Action

Information regarding a violation of Peace Corps policy by, or disciplinary action taken against, a Volunteer is Sensitive Volunteer information but is not Protected Volunteer information. Therefore, a staff member may disclose such information to another staff member with a need to know the information. Such information may not be shared with other Volunteers or others outside the Peace Corps except as otherwise authorized. However, because a Volunteer's dates of service are public information, the fact that a Volunteer is no longer in service (but not the reasons) may be shared publicly.

4.8 Disclosure of Sensitive Volunteer Information Outside of the Peace Corps

- (a) The Privacy Act limits the extent to which Sensitive Volunteer information may be disclosed outside of the Peace Corps. Except as set out in the Privacy Act or in MS 897 Attachment B, or as expressly consented to in writing by the Volunteer, Sensitive Volunteer information may not be disclosed outside the Peace Corps.
- (b) Disclosures permitted under MS 897 Attachment B include, among others : (1) to the Ambassador or designees in a Peace Corps country where the information is needed to perform an official responsibility and (2) to host country officials to obtain visas, inform of pending arrival of the Volunteer and for review of their qualifications. See MS 897 Attachment B for more information.
- (c) As part of the Peace Corps application for service, applicants consent to disclosure of information in their Application resume to other Volunteers, host country counterparts and others as the Peace Corps deems necessary or appropriate in connection with their application or Peace Corps service.

5.0 Access to Data

- (a) Staff members with access to Peace Corps databases have an obligation to access only that information within the database to which they are authorized under this Guidance.
- (b) Systems administrators are considered to have specific need to know any information they must access in order to perform their duties. They are prohibited from disclosing such information to anyone else not authorized to have access to the information under this Guidance.