

MS 654 Non-United States Citizen Staff Discrimination Policy

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Responsible Office: Office of Civil Rights and Diversity (OCRD)

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1.0 Authority

Section 5(a) of the Peace Corps Act (22 USC 2509(a)(5)); Peace Corps Manual Section 645 *Prevention and Elimination of Harassment, Including Sexual Harassment*; and Peace Corps Manual Section 653 *Equal Employment Opportunity and Affirmative Employment*.

2.0 Purpose

The purpose of this Manual Section is to establish a policy and procedure for making and considering allegations by non-United States (U.S.) citizen staff of discrimination (including harassment) based on race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age, disability, or other bases provided for under the Peace Corps Manual, or history of participation in the Peace Corps discrimination complaint process, which arise in connection with their employment outside of the United States.¹

¹ U.S. citizens working overseas are protected by U.S. Constitutional rights, statutes, regulations, and standards that pertain to them. However, the Peace Corps recognizes that foreign nationals engaged by the agency and working as staff in the country of their nationality or permanent residence will be subject to a different set of local laws, rules, regulations, and standards to which, in such cases, the Peace Corps will adhere.

3.0 Policy

- (a) It is the policy of the Peace Corps to provide equal opportunity in employment for all staff and to prohibit discrimination based on race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age, disability, or other bases provided for in the Peace Corps Manual, including MS 653 *Equal Employment Opportunity and Affirmative Employment* subsections 4.1 and 4.3 and MS 645 *Anti-Harassment Program* subsection 3.0, or history of participation in the Peace Corps discrimination process.
- (b) Because non-U.S. citizen staff employed overseas are not covered by the regulations or jurisdiction of the Equal Employment Opportunity Commission, the Peace Corps will undertake the consideration of allegations from non-U.S. citizen staff concerning prohibited discrimination (including harassment) related to their Peace Corps employment only under this Manual Section. No other procedures are available to non-U.S. citizen staff.
- (c) This process is intended to ascertain whether the concerns of the aggrieved party can be resolved to the mutual satisfaction of the aggrieved party and the agency.
- (d) It is the policy of the Peace Corps that agency staff must cooperate in the consideration of an allegation under this Manual Section, and to engage in such consideration in good faith consistent with agency non-discrimination policies and applicable law.

4.0 Definitions

Unless the context requires otherwise, in this Manual Section:

- (a) **OCRD Director** means the Director of the Peace Corps' Office of Civil Rights and Diversity.
- (b) **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 the Peace Corps Manual, or history of participation in the Peace Corps discrimination process.
- (c) **Non-U.S. citizen staff member** means any individual who does not have U.S. citizenship who is or was at the relevant time working under a personal services contract or as a Foreign Service National (FSN) at a Peace Corps post overseas.
- (d) **Aggrieved party** means an aggrieved non-U.S. citizen staff member who believes they have been subject to prohibited discrimination.
- (e) **Counselor** means an official designated by the OCRD Director to perform the functions of an informal inquiry focused on possible resolution consistent with this Manual Section.

5.0 Coverage

- (a) This Manual Section applies to all Peace Corps non-U.S. citizen staff members employed overseas.
- (b) This Manual Section does not on its own 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 in the U.S. or in any other country.

6.0 Freedom from Retaliation

Aggrieved parties will be free from retaliation at any stage in the making or consideration of an allegation under this section or any time thereafter.

7.0 Procedures

7.1 Process for Consideration of Allegations

- (a) Any aggrieved non-U.S. citizen staff member who believes that they have been subject to prohibited discrimination in connection with a personal services contract or employment must bring such allegations to the attention of OCRD within 45 days of the alleged discrimination for assignment of a Counselor to attempt to resolve them.
- (b) This process is intended to ascertain whether the concerns of the aggrieved party can be resolved to the mutual satisfaction of the aggrieved party and the agency.
- (c) The Counselor serves as a neutral (impartial person), to gather a limited amount of information from the aggrieved party about their allegations, explain the process to the aggrieved party, and where appropriate, attempt to facilitate an informal resolution among relevant parties.
- (d) The Counselor will inform the aggrieved party that, although the agency's non-discrimination policies apply to non-U.S. citizen employees, the only procedures for considering or resolving allegations of discrimination are contained in this Manual Section.
- (e) To the extent possible without compromising the identity of the aggrieved party, relevant agency officials may be provided sufficient information about the nature of the allegations to respond appropriately.
- (f) The Counselor will not reveal outside of OCRD the identity of the aggrieved party who has come to them for consultation, except when authorized to do so by the aggrieved party. However, the Counselor should inform the aggrieved party that such confidentiality may affect the ability of the agency to consider the allegations.

- (g) The process should be completed as promptly as possible, normally within 30 days of assignment of a Counselor, but the OCRD Director may extend the period upon request of the aggrieved party or the agency for good cause.
- (h) Following limited inquiry and counseling, the Counselor will notify the aggrieved party in writing of the outcome of the process (including whether or not there was mutually agreed-upon resolution) and the closure of the case.
- (i) The Counselor will keep a written record of their activities, which will be submitted to the OCRD Director as a Counselor's report. The OCRD Director may bring any concerns to the attention of relevant agency managers as appropriate.
- (j) As an alternative to assignment of a Counselor as described above, the aggrieved party may ask for Alternative Dispute Resolution as set out in Peace Corps Manual Section 656, but participation in ADR under this Manual Section is at the option of the Agency, to be determined by the Office of the General Counsel in consultation with Employee and Labor Relations Division in HR and the Responsible Management Official's direct supervisor. In cases where the Agency agrees to ADR, the parties have 90 days to attempt an informal resolution of the allegation.
- (k) In addition, any non-U.S. citizen staff member 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.

8.0 Effective Date

The effective date of this Manual Section is the date of issuance.