

# MS 656 Alternative Dispute Resolution Program

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## 1.0 Purpose

This Manual Section sets forth the Peace Corps policy for an Alternative Dispute Resolution (ADR) Program for Equal Employment Opportunity (EEO) complaints pursuant to MS 653 *Equal Employment Opportunity and Affirmative Employment*; Equal Employment Opportunity and Affirmative Employment; and 29 C.F.R. § 1614; and certain non-EEO Workplace disputes. This Manual Section also applies to complaints made by Peace Corps Volunteers who allege discrimination on the basis of their membership in a protected class pursuant to MS 293

*Volunteer Discrimination Complaint Procedure: Volunteer Discrimination Complaint Procedure; and 22 C.F.R. § 306.8(i).*

## 2.0 Authorities

This Manual Section is based on legal requirements for all federal agencies to establish an ADR Program pursuant to 29 CFR § 1614.105. Additional authorities include:

- Administrative Dispute Resolution Act of 1996, Pub. Law 104-320. 110 Stat. 3870 (1996)
- 29 C.F.R. § 1614.102 (b)(2)
- 29 C.F.R. § 1614.105
- 29 C.F.R. § 1614.106
- EEOC Management Directive 110, Chapter 3, ALTERNATE DISPUTE RESOLUTION
- 22 C.F.R. § 306.8(i)
- 5 U.S.C. 571(9)
- 5 U.S.C. 573(a)
- 29 U.S.C. 626(f)
- 22 U.S.C. § 2501 *et seq.*

## 3.0 Definitions

For the purposes of this Manual Section:

- (a) **“Peace Corps Volunteer (PCV)”** means an Applicant, Invitee, Trainee, Volunteer, or returned Volunteer for Peace Corps Volunteer service.
- (b) **“Employees”** means all employees (including contractors, consultants, and interns) and applicants for employment with the Peace Corps in the United States and to U.S. citizens who are employees or applicants for employment with the Peace Corps outside the United States, including personal services contractors (PSCs). It does not include non-U.S. citizens who are employed or applying for employment with the Peace Corps outside the United States.
- (c) **“Equal Employment Opportunity Complaints”** or **“EEO Complaints”** means complaints or allegations of discrimination made by an employee, which would be covered by Manual Section 653: *Equal Employment Opportunity and Affirmative Employment*.

## 4.0 Policy

### 4.1 Policy

It is the policy of the Peace Corps to maintain a productive work environment where individuals are treated with dignity and respect, and where disputes are settled quickly and fairly at the

lowest organizational level. ADR, an early collaborative dispute resolution process, is used by the Peace Corps as a process for quickly and fairly resolving Equal Employment Opportunity (EEO) complaints and Peace Corps Volunteer (PCV) discrimination complaints. The OCR Director may, at their discretion, offer OCR facilitated ADR for non-EEO related workplace disputes.

## **4.2 Scope of Coverage**

- (a) This Manual Section applies to all employees and applicants for employment with the Peace Corps in the United States and to U.S. citizens who are employees or applicants for employment with the Peace Corps outside the United States, including personal services contractors (PSCs).
- (b) This Manual Section does not apply to host country, or third country nationals employed or applying for employment with the Peace Corps outside the United States.
- (c) This Manual Section applies to complaints or disputes arising from allegations of prohibited discrimination under MS 653 *Equal Employment Opportunity and Affirmative Employment* and MS 293 *Volunteer Discrimination Complaint Procedure*.
- (d) At the discretion of the OCR Director, this Manual Section may be applied to employee workplace disputes that are not covered by MS 653 *Equal Employment Opportunity and Affirmative Employment* and MS 293: *Volunteer Discrimination Complaint Procedure*.
- (e) This Manual Section does not constitute “alternative dispute resolution” for the resolution of PSC contract disputes under C.F.R. § 33.214. PSCs may not use the ADR process set forth in this Manual Section if dispute involves a contract dispute under the contracts dispute clause in a personal services contract.

## **4.3 Office of Civil Rights**

- (a) ADR is managed by the Office of Civil Rights (OCR)
- (b) The OCR Director may mediate or assign another mediator to the matter.

## **4.4 Participation in Dispute Resolution**

- (a) While the majority of employee EEO complaints filed in accordance with MS 653 and 29 C.F.R. § 1614 or Volunteer discrimination complaints filed in accordance with MS 293 and C.F.R. § 306.8 (i) are assumed to be eligible for ADR, the OCR Director has discretion to determine whether a complaint is appropriate for resolution pursuant to ADR. Procedures for any determination that a complaint is ineligible for resolution pursuant to ADR is set forth in the implementing procedures for this Manual Section.
- (b) Employee cases: ADR is voluntary for aggrieved individuals using the EEO process. Once an employee elects ADR and OCR determines the dispute is eligible to be resolved pursuant to ADR, a Peace Corps Management Official (MO) with decision-making

authority must participate in the ADR process, except for the Peace Corps Office of Inspector General (OIG), which may elect to take part in ADR at their discretion. The employee electing ADR may withdraw their election at any time.

- (c) Volunteer cases: ADR is voluntary for aggrieved Peace Corps Volunteers. Once a Volunteer elects ADR and OCR determines the dispute is eligible to be resolved pursuant to ADR, a Peace Corps Management Official (MO) with decision-making authority must participate in the ADR process. The aggrieved Volunteer may terminate the proceedings at any time. The Responsible Management Official (or their supervisor), in consultation with the Office of the General Counsel, may terminate the proceedings at any time during the course of ADR proceedings.

#### **4.5 ADR Techniques**

ADR seeks to facilitate a collaborative dispute resolution process for the early resolution of complaints at the lowest possible organizational level. Mediation is the preferred ADR method; however, other dispute resolution methods may be used when the OCR Director deems them appropriate. Other methods may include conflict coaching, group mediation, fact-finding, and facilitation. These methods will be defined in the procedures for this Manual Section.

#### **4.6 Objectives of ADR Program**

The objectives of the ADR program are to:

- (a) Permit impartial third-party intervention during the informal and formal stage of EEO and Volunteer complaint processing and at the earliest possible stage for an employee's non-EEO workplace dispute;
- (b) Make available a forum to address employee workplace disputes (EEO and non-EEO) and Volunteer discrimination complaints;
- (c) Educate the parties about practical problem-solving techniques and establish a mutually acceptable approach to problem solving;
- (d) Implement an ownership process wherein the complaint or dispute at issue is resolved by the involved parties; and
- (e) Provide a cooperative and nonthreatening environment to facilitate open communication.

#### **4.7 Timeline for ADR Process**

- (a) Informal EEO complaints must be completed within 30 days of the date the aggrieved individual contacted OCR to initiate the process. The 30-day informal complaint period is extended for an additional 60 days, for a total of 90 days, if the aggrieved individual chooses to participate in the ADR process in accordance with 29 C.F.R. § 1614.105, which governs the federal employee informal EEO complaint process.

- (b) Formal EEO complaints must be investigated within 180 days of the date the complainant filed the formal complaint. ADR can be initiated at any point in the formal complaint process, in accordance with 29 C.F.R § 1614, which governs the federal employee formal EEO complaint process. If a complainant elects ADR, the process will operate simultaneously with the investigation.
- (c) Peace Corps volunteers, trainees, or applicants who file an equal opportunity pre-complaint pursuant to 22 C.F.R. § 306, may elect to participate in ADR. If the aggrieved elects ADR, the parties have 90 days to attempt, in good faith, an informal resolution of the allegation. At any time during the course of ADR, the aggrieved party or the Responsible Management Official (or their supervisor), in consultation with the Office of the General Counsel, may terminate the ADR proceedings. The OCR Director may extend the period upon request of the aggrieved party or the agency for good cause shown, in accordance with 22 C.F.R § 306.8 (g).

#### **4.8 Feedback from ADR Participants**

OCR shall develop a process for collecting optional feedback from ADR participants. This process shall be incorporated into the Procedures for this Manual Section.

#### **4.9 Procedures**

Procedures implementing this Manual Section shall be developed by OCR. Authority for approving and revising procedures is delegated to OCR and the Office of the General Counsel in consultation with the Chief Human Capital Officer (CHCO).

#### **5.0 Effective Date**

This Manual Section shall take effect on the date of issuance.