

§ 1225.11

(a) Selection as a member or volunteer for aggrieved parties found to have been denied selection based on prohibited discrimination.

(b) Reappointment to national service for aggrieved parties found to have been early-terminated as a result of prohibited discrimination. To the extent possible, a member or volunteer will be placed in the same position previously held. However, reassignment to the specific position previously held is contingent on several programmatic considerations such as the continued availability of the position. 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 commitment to national 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 CEO or their designee.

§ 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 CEO or their designee. 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,

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the CEO or their designee 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, candidate, member or volunteer who believes that he or she is among a group of present or former CNCS national service applicants, candidates, members or volunteers, 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.

§ 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 EEOP 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 consists 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

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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 EEOP 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 EEOP Director may decide to reject the allegation. If the explanation is not satisfactory, the EEOP 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 EEOP Director shall afford the agent 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint. The EEOP 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 EEOP Director must advise the agent how to proceed on an individual or class basis concerning these allegations.

(d) The EEOP 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 EEOP 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 then shall be construed and applied accordingly.

(f) The EEOP 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 EEOP 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 EEOP 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 EEOP 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