

§ 1220.3–3

Corporation for National and Community Service grant; and

(c) The conditions specified in § 1220.3–1(b) and (c) are met.

[80 FR 63458, Oct. 20, 2015]

§ 1220.3–3 Procedure.

Immediately upon the receipt by a volunteer of any court papers or administrative orders making a party to any proceeding covered under § 1220.3–1 or § 1220.3–2, the volunteer shall immediately notify his sponsor who in turn shall notify the appropriate Corporation for National and Community Service state office. The procedures referred to in § 1220.2–3(c) through (e) shall thereafter be followed as appropriate.

[80 FR 63459, Oct. 20, 2015]

PART 1222 [RESERVED]

PART 1225—MEMBER AND VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Subpart A—General Provisions

Sec.

- 1225.1 Purpose.
- 1225.2 Policy.
- 1225.3 Definitions.
- 1225.4 Coverage.
- 1225.5 Representation.
- 1225.6 Freedom from reprisal.
- 1225.7 Review of allegations of reprisal.

Subpart B—Processing Individual Complaints of Discrimination

- 1225.8 Precomplaint procedure.
- 1225.9 Complaint procedure.
- 1225.10 Corrective action.
- 1225.11 Amount of attorney fees.

Subpart C—Processing Class Complaints of Discrimination

- 1225.12 Precomplaint procedure.
- 1225.13 Acceptance, rejection or cancellation of a complaint.
- 1225.14 Consolidation of complaints.
- 1225.15 Notification and opting out.
- 1225.16 Investigation and adjustment of complaint.
- 1225.17 Agency decision.
- 1225.18 Notification of class members of decision.
- 1225.19 Corrective action.
- 1225.20 Claim appeals.
- 1225.21 Judicial review.

45 CFR Ch. XII (10–1–24 Edition)

AUTHORITY: 42 U.S.C. 5057(d), 12635(d), and 12651(c).

SOURCE: 86 FR 30174, June 7, 2021, unless otherwise noted.

Subpart A—General Provisions

§ 1225.1 Purpose.

The purpose of this part is to establish a procedure for the filing, investigation, and administrative determination of allegations of discrimination based on race, color, national origin, religion, age, sex, disability or political affiliation, which arise in connection with the recruitment, selection, placement, service, or termination of AmeriCorps and AmeriCorps Seniors applicants, candidates, Members and Volunteers for part time and full time service, as appropriate.

§ 1225.2 Policy.

It is the policy of the Corporation for National and Community Service (CNCS) to provide equal opportunity in all its national service programs for all persons and to prohibit discrimination based on race, color, national origin, religion, age, sex, disability or political affiliation in the recruitment, selection, placement, service, and termination of AmeriCorps and AmeriCorps Seniors applicants, candidates, Members and Volunteers. It is the policy of CNCS, upon determining that such prohibited discrimination has occurred, to take all necessary corrective action to remedy the discrimination, and to prevent its recurrence.

§ 1225.3 Definitions.

Unless the context requires otherwise, in this part:

Agent means a class member who acts for the class during the processing of a class complaint. In order to be accepted as the agent for a class complaint, in addition to those requirements of a complaint found in § 1225.3, the complaint must meet the requirements for a class complaint as found in subpart C of this part.

AmeriCorps member means a person who serves in a national service position for which a Segal AmeriCorps Education Award could be provided.

AmeriCorps Seniors Volunteer means a person who serves as a volunteer

Corporation for National and Community Service

§ 1225.4

through a program funded under Title II of the DVSA, including the Retired Senior Volunteer Program, the Foster Grandparent Program, and the Senior Companion Program.

Applicant means a person who has submitted a completed application required for consideration of eligibility for CNCS national service as a member or volunteer. *Applicant* may also mean a person who alleges that the actions of recipient or subrecipient organization staff, or agency personnel precluded him or her from submitting such an application or any other information reasonably required by CNCS as necessary for a determination of the individual's eligibility for national service.

Candidate means a person who has accepted an offer to commence service as a member or volunteer but has not yet enrolled for service in a CNCS national service program.

CEO means the Chief Executive Officer of CNCS. The term shall also refer to any designee of the CEO.

Complaint means a written statement signed by the complainant and submitted to the EEOP Director. A complaint shall set forth specifically and in detail:

- (1) A description of the management policy or practice during the application stage as an applicant, during the candidacy stage as a candidate, or during the service stage as a member or volunteer, if any, giving rise to the complaint;

- (2) A detailed description including names and dates, if possible, of the actions of CNCS, recipients or subrecipients of CNCS assistance or resources, or the officials of those recipients or subrecipients, which resulted in the alleged illegal discrimination;

- (3) The manner in which the action of CNCS, or the CNCS recipient or subrecipient, directly affected the complainant; and

- (4) The relief sought.

- (5) A complaint shall be deemed filed on the date it is received by the appropriate agency official. When a complaint does not conform with the above definition, it shall nevertheless be accepted. The complainant shall be notified of the steps necessary to correct the deficiencies of the complaint. The

complainant shall have 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint.

Counselor means an official designated by the EEOP Director to perform the functions of conciliation as detailed in this part.

EEOP Director means the Director of the Equal Employment Opportunity Program of CNCS. The term shall also refer to any designee of the EEOP Director.

Illegal discrimination means discrimination on the basis of race, color, national origin, religion, age, sex, disability or political affiliation as defined in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791, *et seq.*); the Age Discrimination Act of 1975 (42 U.S.C. 6101, *et seq.*), Section 175 of the National and Community Service Act of 1990, as amended, and Section 5057 of the Domestic Volunteer Service Act of 1973, as amended. Further clarification of the scope of matters covered by this definition may be obtained by referring to the following regulations: Sex Discrimination: 29 CFR part 1604; Religious Discrimination: 29 CFR part 1605; National Origin Discrimination: 29 CFR part 1606; Age Discrimination: 45 CFR part 90; Disability Discrimination: 29 CFR part 1630.

§ 1225.4 Coverage.

- (a) These procedures apply to all CNCS national service applicants, candidates, members and volunteers throughout their term of service with CNCS, or with recipients and subrecipients of CNCS assistance or resources. When an applicant, candidate, member or volunteer makes a complaint which contains an allegation of illegal discrimination in connection with an action that would be otherwise be processed under a grievance, early termination, or other administrative system of the agency, the allegation of illegal discrimination shall be processed under this part. At the discretion of the EEOP Director, any other issues raised may be consolidated with the discrimination complaint for processing under these regulations. Any issues which are not so consolidated shall continue to

§ 1225.5

be processed under those procedures in which they were originally raised.

(b) The submission of class complaints alleging illegal discrimination as defined above will be handled in accordance with the procedure outlined in subpart C.

§ 1225.5 Representation.

Any aggrieved party may be represented and assisted in all stages of these procedures by an attorney or representative of his or her own choosing. An aggrieved party must immediately inform the agency if counsel is retained. Attorney fees or other appropriate relief may be awarded in the following circumstances;

(a) *Informal adjustment of a complaint.* An informal adjustment of a complaint may include an award of attorney fees or other relief deemed appropriate by the EEOP Director. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney fees or costs should be awarded, or on their amount, this issue may be appealed to the CEO, or their designee, in the manner detailed in § 1225.11.

(b) *Final agency decision.* When discrimination is found, the CEO, or their designee, shall advise the complainant that any request for attorney fees or costs must be documented and submitted for review within 20 calendar days after his or her receipt of the final agency decision. The amount of such awards shall be determined under § 1225.11. In the unusual situation in which it is determined not to award attorney fees or other costs to a prevailing complainant, the CEO, or their designee, in his or her final decision shall set forth the specific reasons thereof.

§ 1225.6 Freedom from reprisal.

Aggrieved parties, their representatives, and witnesses will be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage described in § 1225.8, or any time thereafter.

45 CFR Ch. XII (10–1–24 Edition)

§ 1225.7 Review of allegations of reprisal.

An aggrieved party, his or her representative, or a witness who alleges restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of a complaint under this part, may if covered by this part, request in writing that the allegation be reviewed as an individual complaint of discrimination subject to the procedures described in subpart B or that the allegation be considered as an issue in the complaint at hand.

Subpart B—Processing Individual Complaints of Discrimination

§ 1225.8 Precomplaint procedure.

(a) An aggrieved person who believes that he or she has been subject to illegal discrimination shall bring such allegations to the attention of the appropriate Counselor within 30 days of the alleged discrimination to attempt to resolve them. Aggrieved applicants, candidates, members, and volunteers applying for, or enrolled in programs operated by CNCS, or by recipients or subrecipients of CNCS assistance or resources, shall direct their allegations to the designated counselor.

(b) Upon receipt of the allegation, the counselor or designee shall make whatever inquiry is deemed necessary into the facts alleged by the aggrieved party and shall counsel the aggrieved party for the purpose of attempting an informal resolution agreeable to all parties. The counselor will keep a written record of his or her activities which will be submitted to the EEOP Director if a formal complaint concerning the matter is filed.

(c) If after such inquiry and counseling an informal resolution to the allegation is not reached, the counselor shall notify the aggrieved party in writing of the right to file a complaint of discrimination with the EEOP Director within 15 calendar days of the aggrieved party's receipt of the notice.

(d) The counselor shall not reveal the identity of the aggrieved party who has come to him or her for consultation, except when authorized to do so by the aggrieved party. However, the identity of the aggrieved party may be revealed