

## **§ 2556.400**

(1) The grievance appeal was not submitted to the appropriate Regional Administrator within the time limit specified in paragraph (c) of this section;

(2) The grievance appeal consists of matters not contained within the definition of a grievance, as specified in section § 2556.350(a);

(3) The grievance appeal consists of matters excluded from the VISTA program grievance procedure, as specified in § 2556.350(b); or

(4) The grievance appeal contains matters that are moot, or for which relief has otherwise been granted.

(e) Within 14 calendar days of receipt of the grievance, the appropriate Regional Administrator will decide the grievance appeal on the merits, or reject the grievance appeal in whole or in part, or both, as appropriate. The Regional Administrator shall notify the VISTA in writing of the decision and specify the grounds for the appeal decision. The appeal decision will include a statement of the basis for the decision and is a final decision of AmeriCorps.

### **Subpart E—Termination for Cause Procedures**

#### **§ 2556.400 What is termination for cause and what are the criteria for termination for cause?**

(a) Termination for cause is discharge of a VISTA from the VISTA program due to a deficiency, or deficiencies, in conduct or performance.

(b) AmeriCorps may terminate a VISTA for cause for any of the following reasons:

(1) Conviction of any criminal offense under Federal, State, or local statute or ordinance;

(2) Violation of any provision of the Domestic Service Volunteer Act of 1973, as amended, or any AmeriCorps or VISTA program policy, regulation, or instruction;

(3) Failure, refusal, or inability to perform prescribed project duties as outlined in the project plan, assignment description, or as directed by the sponsor to which the VISTA is assigned;

(4) Involvement in activities which substantially interfere with the VISTA's performance of project duties;

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(5) Intentional false statement, misrepresentation, omission, fraud, or deception in seeking to obtain selection as a VISTA in the VISTA program;

(6) Any conduct on the part of the VISTA which substantially diminishes their effectiveness as a VISTA; or

(7) Unsatisfactory performance of an assignment.

#### **§ 2556.405 Who has sole authority to remove a VISTA from a VISTA project and who has sole authority to terminate a VISTA from a VISTA project or the VISTA program?**

(a) AmeriCorps has the sole authority to remove a VISTA from a project where they have been assigned.

(b) AmeriCorps has the sole authority to terminate for cause or otherwise terminate a VISTA from the VISTA program.

(c) Neither the sponsoring organization nor any of its subrecipients has the authority to remove a VISTA from a project or to terminate a VISTA for cause, or for any other basis, from the VISTA program.

#### **§ 2556.410 May a sponsor request that a VISTA be removed from its project?**

(a) The head of a sponsoring organization, or their designee, may request that AmeriCorps remove a VISTA assigned to its project. Any such request must be submitted in writing to the appropriate Portfolio Manager and should state the reasons for the request.

(b) The Portfolio Manager may, at their discretion, attempt to resolve the situation with the sponsor so that a solution other than removal of the VISTA from the project assignment is reached.

(c) When an alternative solution, as referenced in paragraph (b) of this section, is not sought, or is not reached within a reasonable time period, the VISTA Case Manager will remove the VISTA from the project.

#### **§ 2556.415 May AmeriCorps remove a VISTA from a project without the sponsor's request for removal?**

Of its own accord, AmeriCorps may remove a VISTA from a project assignment without the sponsor's request for removal.

**§ 2556.420 What are termination for cause proceedings?**

(a) Termination for cause proceedings remove a VISTA from a project assignment due to an alleged deficiency, or alleged deficiencies, in conduct or performance, and are initiated by AmeriCorps.

(b) AmeriCorps, to the extent practicable, communicates the matter, and the administrative procedures as set forth in paragraphs (c) through (e) of this section, with the VISTA who is removed from a VISTA project.

(c) The VISTA Case Manager will notify the VISTA in writing of AmeriCorps' proposal to terminate for cause. The written proposal to terminate the VISTA for cause must give them the reason(s) for the proposed termination, and notify them that they have 10 calendar days within which to submit a written answer to the proposal to terminate them cause and to furnish any accompanying statements or written material. The VISTA must submit their answer to the VISTA Case Manager by the deadline identified in the written proposal to terminate for cause.

(d) Within 10 calendar days of the expiration of the VISTA's deadline to answer the proposal to terminate for cause, AmeriCorps will issue a written decision regarding the proposal to terminate for cause.

(1) If AmeriCorps decides to terminate the VISTA for cause, its written decision will set forth the reasons for the determination and the effective date of termination (which may be on or after the date of the decision).

(2) If AmeriCorps decides not to terminate the VISTA for cause, the written decision will indicate that the proposal to terminate for cause is rescinded.

(e) A VISTA who does not submit a timely answer to the appropriate VISTA Case Manager, as set forth in paragraph (c) of this section, is not entitled to appeal the decision regarding the proposal to terminate for cause. In such cases, AmeriCorps may terminate the VISTA for cause, on the date identified in the decision, and the termination action is final.

**§ 2556.425 May a VISTA appeal their termination for cause?**

(a) Within 10 calendar days of AmeriCorps' issuance of the decision to terminate the VISTA for cause, as set forth in § 2556.420(d), the VISTA may appeal the decision to the VMSU Director. The appeal must be in writing and specify the reasons for the VISTA's disagreement with the decision.

(b) AmeriCorps will not incur any expenses or travel allowances for the VISTA in connection with the preparation or presentation of the appeal.

(c) The VISTA may have access to records as follows:

(1) The VISTA may review any material in the VISTA's official AmeriCorps file and any relevant AmeriCorps records to the extent permitted by the Freedom of Information Act and the Privacy Act, 5 U.S.C. 552, 552a. Examples of documents that may be withheld include references obtained under pledge of confidentiality, official files of other program participants, and privileged intra-agency documents.

(2) The VISTA may review relevant records in the possession of a sponsor to the extent such documents are disclosable by the sponsor under applicable freedom of information act and privacy laws.

(d) Within 14 calendar days of receipt of any appeal by the VISTA, the VMSU Director or equivalent AmeriCorps official will issue a written appeal determination indicating the reasons for the appeal determination. The appeal determination will be final.

**§ 2556.430 Is a VISTA who is terminated early from the VISTA program for other than cause entitled to appeal under these procedures?**

(a) Only a VISTA whose early termination from the VISTA program is for cause, and who has answered the proposal to terminate them for cause in a timely manner, as set forth in § 2556.420(c), is entitled to appeal the early termination action, as referenced in § 2556.425. A termination for cause is based on a deficiency, or deficiencies, in the performance or conduct of a VISTA.

(b) The following types of early terminations from the VISTA program are not terminations for cause, and are

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not entitled to appeal under the early termination appeal procedure set forth in §§ 2556.420 and 2556.425:

(1) Resignation from the VISTA program prior to the issuance of a decision to terminate for cause, as set forth in § 2556.420(d);

(2) Early termination from the VISTA program because a VISTA did not secure a suitable reassignment to another project; and

(3) Medical termination from the VISTA program.

### **Subpart F—Summer Associates**

#### **§ 2556.500 How is a position for a summer associate established in a project?**

Subject to VISTA assistance availability, AmeriCorps approves the establishment of summer associate positions based on the following factors:

(a) The need in the community, as demonstrated by the sponsor, for the performance of project activities by a summer associate(s);

(b) The content and quality of summer associate project plans;

(c) The capacity of the sponsor to implement the summer associate project activities; and

(d) The sponsor's compliance with all applicable parts of the DVSA, VISTA program policy, and the sponsor's Memorandum of Agreement, which incorporates their project application.

#### **§ 2556.505 How do summer associates differ from other VISTAs?**

Summer associates differ from other VISTAs in the following ways:

(a) Summer associates are not eligible to receive:

(1) Health care through a health benefits program provided by AmeriCorps;

(2) Childcare support through a childcare program provided by AmeriCorps;

(3) Payment for settling-in expenses; or

(4) Non-competitive eligibility in accordance with 5 CFR 315.605.

(b) Absent extraordinary circumstances, summer associates are not eligible to receive:

(1) Payment for travel expenses incurred for travel to or from the project

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site to which the summer associate is assigned; or

(2) A relocation travel allowance to offset the cost of relocating from the summer associate's home of record to the project site to which they are assigned to serve.

(c) AmeriCorps may discharge a summer associate due to a deficiency, or deficiencies, in conduct or performance. Summer associates are not subject to subpart E of this part, or to the grievance procedures provided to VISTAs set forth in §§ 2556.345 through 2556.365.

### **Subpart G—VISTA Leaders**

#### **§ 2556.600 How is a position for a leader established in a project, or in multiple projects within a contiguous geographic region?**

(a) At its discretion, AmeriCorps may approve the establishment of a leader position based on the following factors:

(1) The need for a leader in a project of a substantial size and with multiple VISTAs assigned to serve at that project, or the need for leader for multiple projects located within a contiguous geographic region.

(2) The need for a leader to assist with the communication of VISTA policies and administrative procedures to VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(3) The need for a leader to assist with the professional development of VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(4) The need for a leader to assist with the recruitment and preparation for the arrival of VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(5) The capacity of the VISTA supervisor to support and guide the leader.

(b) A sponsor may request, in its project application, that AmeriCorps establish a leader position in its project.