

## PART 1200 [RESERVED]

### PART 1201—PRODUCTION OR DISCLOSURE OF OFFICIAL INFORMATION IN RESPONSE TO COURT ORDERS, SUBPOENAS, NOTICES OF DEPOSITIONS, REQUESTS FOR ADMISSIONS, INTERROGATORIES, OR IN CONNECTION WITH FEDERAL OR STATE LITIGATION

Sec.

1201.1 Definitions.

1201.2 Scope.

1201.3 Service of summonses and complaints.

1201.4 Service of subpoenas, court orders, and other demands or requests for official information or action.

1201.5 Testimony and production of documents prohibited unless approved by appropriate Corporation officials.

1201.6 Procedure when testimony or production of documents is sought.

1201.7 Procedure when response is required prior to receiving instructions.

1201.8 Procedure in the event of an adverse ruling.

1201.9 Considerations in determining whether the Corporation will comply with a demand or request.

1201.10 Prohibition on providing expert or opinion testimony.

1201.11 Authority.

AUTHORITY: 42 U.S.C. 12501 *et seq.*

SOURCE: 63 FR 4598, Jan. 30, 1998, unless otherwise noted.

#### § 1201.1 Definitions.

(a) *Corporation Employee* means the Chief Executive Officer of the Corporation and all employees, former employees, National Civilian Community Corps Members (hereinafter sometimes known as “Corps Members”), and VISTA Volunteers (hereinafter sometimes also known as “AmeriCorps\*VISTA Members”), who are or were subject to the supervision, jurisdiction, or control of the Chief Executive Officer, except as the Corporation may otherwise determine in a particular case.

(b) *Litigation* encompasses all pre-trial, trial, and post-trial stages of all judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals,

whether criminal, civil, or administrative in nature.

(c) *Official Information* means all information of any kind, however stored, that is in the custody and control of the Corporation, relates to information in the custody and control of the Corporation, or was acquired by individuals connected with the Corporation as part of their official status within the Corporation while such individuals are employed by, or serve on behalf of, the Corporation.

#### § 1201.2 Scope.

(a) This part states the procedures followed with respect to:

(1) Service of summonses and complaints or other requests or demands directed to the Corporation or to any Corporation employee in connection with Federal or State litigation arising out of, or involving the performance of, official activities of the Corporation; and

(2) Oral or written disclosure, in response to subpoenas, orders, or other requests or demands from Federal or by State judicial or quasi-judicial authority, whether civil or criminal, or in response to requests for depositions, affidavits, admissions, responses to interrogatories, document production, or other litigation-related matters of:

(i) Any material contained in the files of the Corporation; or

(ii) Any information acquired:

(A) When the subject of the request is currently a Corporation employee or was a Corporation employee; or

(B) As part of the performance of the person’s duties or by virtue of the person’s position.

(b) Sections 1201.3 through 1201.10 do not apply to:

(1) Testimony or records provided in accordance with the Office of Personnel Management regulations implementing 5 U.S.C. 6322.

(2) Requests for, and release of, records under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

(3) Disclosures to the Office of Inspector General or requests by the Office of Inspector General for official information or records.

(c) The procedures in this part apply to Corporation employees and official

### § 1201.3

information within the Corporation Office of Inspector General. However, any determinations or other actions to be made by the General Counsel under this part, relating to employees or official information within the Office of Inspector General, shall be made by the Inspector General.

[63 FR 4598, Jan. 30, 1998, as amended at 63 FR 64199, Nov. 19, 1998]

#### **§ 1201.3 Service of summonses and complaints.**

(a) Only the Corporation's General Counsel or his/her designee (hereinafter "General Counsel"), is authorized to receive and accept summonses or complaints sought to be served upon the Corporation or its employees. All such documents should be delivered or addressed to General Counsel, Corporation for National and Community Service, 250 E Street SW., Washington, DC 20525.

(b) In the event any summons or complaint is delivered to a Corporation Employee other than in the manner specified in this part, such attempted service shall be ineffective, and the recipient thereof shall either decline to accept the proffered service or return such document under cover of a written communication that refers the person attempting to effect service to the procedures set forth in this part.

(c) Except as otherwise provided in § 1201.4(c), the Corporation is not an authorized agent for service of process with respect to civil litigation against Corporation Employees purely in their personal, non-official capacity. Copies of summonses or complaints directed to Corporation Employees in connection with legal proceedings arising out of the performance of official duties may, however, be served upon the General Counsel.

[63 FR 4598, Jan. 30, 1998, as amended at 81 FR 12600, Mar. 10, 2016]

#### **§ 1201.4 Service of subpoenas, court orders, and other demands or requests for official information or action.**

(a) Except in cases in which the Corporation is represented by legal counsel who have entered an appearance or otherwise given notice of their representation, only the General Counsel

### 45 CFR Ch. XII (10–1–24 Edition)

is authorized to receive and accept subpoenas, or other demands or requests directed to any component of the Corporation or Corporation Employees, whether civil or criminal in nature, for:

(1) Material, including documents, contained in the files of the Corporation;

(2) Information, including testimony, affidavits, declarations, admissions, response to interrogatories, or informal statements, relating to material contained in the files of the Corporation or which any Corporation employee acquired in the course and scope of the performance of official duties;

(3) Garnishment or attachment of compensation of Corporation Employees; or

(4) The performance or non-performance of any official Corporation duty.

(b) In the event that any subpoena, demand, or request is sought to be delivered to a Corporation Employee other than in the manner prescribed in paragraph (a) of this section, such attempted service shall be ineffective. Such Corporation Employee shall, after consultation with the General Counsel, decline to accept the subpoena, and demand or request the return of it under cover of a written communication referring to the procedures prescribed in this part.

(c) Except as otherwise provided in this part, the Corporation is not an agent for service or otherwise authorized to accept on behalf of Corporation Employees any subpoenas, show-cause orders, or similar compulsory process of federal or state courts, or requests from private individuals or attorneys, which are not related to the employees' official duties except upon the express, written authorization of the individual Corporation Employee to whom such demand or request is directed.

(d) Acceptance of such documents by the General Counsel does not constitute a waiver of any defenses that might otherwise exist with respect to service under the Federal Rules of Civil or Criminal Procedure at 28 U.S.C. Appendix, Rules 4–6 or 18 USC Appendix or other applicable rules.