

(d) Volunteers referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which impair existing contracts for service. This prohibition is violated if a contract for services is modified or cancelled because an agency or organization referred to in § 1216.1-2(b) engages a volunteer to provide or perform all or a substantial part of any services, duties, or other activities set forth in such contract. The term “contract for services” includes but is not limited to contracts, understandings and arrangements, either written or oral, to provide professional, managerial, technical, or administrative services.

(e) Agencies and organizations referred to in § 1216.1-2(b) are prohibited from assigning or permitting volunteers referred to in § 1216.1-2(a) to perform any services or duties or engage in any activities prohibited by paragraphs (a) through (d) of this section.

#### § 1216.1-4 Exceptions.

(a) The requirements of § 1216.1-3 are not applicable to the following, or similar, situations:

(1) Funds are unavailable for the employment of sufficient staff to accomplish a program authorized or of a character eligible for assistance under the Act and the activity, service, or duty is otherwise appropriate for the assignment of a volunteer.

(2) Volunteer services are required in order to avoid or relieve suffering threatened by or resulting from major natural disasters or civil disturbances.

(3) Reasonable efforts to obtain employed workers have been unsuccessful due to the unavailability of persons within the community who are able, willing, and qualified to perform the needed activities.

(4) The assignment of volunteers will significantly expand services to a target community over those which could be performed by existing paid staff, and the activity, service or duty is otherwise appropriate for the assignment of a volunteer and no actual displacement of paid staff will occur as a result of the assignment.

(b) For the purposes of paragraphs (a)(1) and (4) of this section, the assign-

ment is not appropriate for the assignment of a volunteer if:

(1) The service, duty, or activity is principally a routine administrative or clerical task. This definition applies only to any service, duty, or activity performed by a volunteer receiving financial support apart from reimbursement for expenses.

(2) The volunteer is not directly in contact with groups or individuals whom the Act is designed to serve or is not performing services, duties, or engaged in activities authorized or of a character eligible for assistance under the Act.

### PART 1217-1219 [RESERVED]

## PART 1220—PAYMENT OF VOLUNTEER LEGAL EXPENSES

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AUTHORITY: 42 U.S.C. 5059.

SOURCE: 40 FR 28800, July 9, 1975, unless otherwise noted.

### Subpart A—General

#### § 1220.1-1 Purpose.

This part implements section 419 of the Domestic Volunteer Service Act of 1973, Public Law 93-113 (the “Act”). This part provides rules to ensure that the Corporation for National and Community Service, which administers the three federal programs, the Foster Grandparent Program (FGP), the Senior Companion Program (SCP), and The Retired and Senior Volunteer Program (RSVP), pays the expenses incurred in

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judicial and administrative proceedings for the defense of those volunteers serving in those programs. Payment of such expenses by CNCS for those volunteers include payment of counsel fees, court costs, bail or other expenses incidental to the volunteer's defense.

[80 FR 63458, Oct. 20, 2015]

### Subpart B—Criminal Proceedings

#### § 1220.2-1 Full-time volunteers.

(a)(1) The Corporation for National and Community Service will pay all reasonable expenses for defense of full-time volunteers up to and including the arraignment of Federal, state, and local criminal proceedings, except in cases where it is clear that the charged offense results from conduct which is not related to his service as a volunteer.

(2) Situations where conduct is clearly unrelated to a volunteer's service are those that arise either:

(i) In a period prior to volunteer service,

(ii) Under circumstances where the volunteer is not at his assigned volunteer project location, such as during periods of administrative, vacation, or emergency leave, or

(iii) When he is at his volunteer station, but the activity or action giving rise to the charged offense is clearly not part of, or required by, such assignment.

(b) Reasonable expenses in criminal proceedings beyond arraignment may be paid in cases where:

(1) The charge against the volunteer relates to his assignment or status as a volunteer, and not his personal status or personal matters. A charge relating to a volunteer's assignment arises out of any activity or action which is a part of, or required by, such assignment. A charge relating to a volunteer's status is motivated exclusively by the fact that a defendant is a volunteer.

(2) The volunteer has not admitted a willful or knowing violation of law, and

(3) The charge(s) is not a minor misdemeanor, such as a minor vehicle violation for which a fine or bail forfeiture will not exceed \$100.

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(c) Notwithstanding the foregoing, there may be situations in which the criminal proceeding results from a situation which could give rise to a civil claim under the Federal Tort Claims Act. In such situations, the Justice Department may agree to defend the volunteer. In those cases, unless there is a conflict between the volunteer's interest and that of the government, the Corporation for National and Community Service will not pay for additional private representation for the volunteer.

[40 FR 28800, July 9, 1975, as amended at 80 FR 63458, Oct. 20, 2015]

#### § 1220.2-2 Part-time volunteers.

(a) With respect to a part-time volunteer, the Corporation for National and Community Service will reimburse a sponsor for the reasonable expense it incurs for the defense of the volunteer in Federal, state and local criminal proceedings, including arraignment, only under the following circumstances:

(1) The proceeding arises directly out of the volunteer's performance of activities pursuant to the Act;

(2) The volunteer receives, or is eligible to receive, compensation, including allowances, stipend, or reimbursement for out-of-pocket expenses, under a Corporation for National and Community Service grant project; and

(3) The conditions specified in paragraphs (b)(2) and (3) in §1220.2-1 are met.

(b) In certain circumstances volunteers who are ineligible for reimbursement of legal expenses by the Corporation for National and Community Service may be eligible for representation under the Criminal Justice Act (18 U.S.C. 3006A).

[40 FR 28800, July 9, 1975, as amended at 80 FR 63458, Oct. 20, 2015]

#### § 1220.2-3 Procedure.

(a) Immediately upon the arrest of any volunteer under circumstances in which the payment or bail to prevent incarceration or other serious consequences to the volunteer or the retention of an attorney prior to arraignment is necessary and is covered under