

Corporation for National and Community Service

§ 1225.15

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

§ 1225.16

(4) An explanation of the binding nature of the final decision or resolution of the complaint.

§ 1225.16 Investigation and adjustment of complaint.

The complaint shall be processed promptly after it has been accepted. Once a class complaint has been accepted, the procedure outlined in 1225.9 of this part shall apply.

§ 1225.17 Agency decision.

(a) If an adjustment of the complaint cannot be made, the procedures outlined in 1225.9 shall be followed by the EEOP Director except that any notice required to be sent to the aggrieved party shall be sent to the agent of the class or his or her representative.

(b) The final agency decision on a class complaint shall be binding on all members of the class.

§ 1225.18 Notification of class members of decision.

Class members shall be notified by the agency of the final agency decision and corrective action, if any, using at the minimum, the same media employed to give notice of the existence of the class complaint. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief and of the procedures to be followed. Notice shall be given by the Agency within ten (10) calendar days of the transmittal of its decision to the agent.

§ 1225.19 Corrective action.

(a) When discrimination is found. CNCS, or the recipient or subrecipient of CNCS assistance or resources, as appropriate, must take appropriate action to eliminate or modify the policy or practice out of which such discrimination arose, and provide individual corrective action to the agent and other class members in accordance with § 1225.10.

(b) When discrimination is found and a class member believes that but for that discrimination he or she would have been accepted as a member or volunteer or received some other volunteer service benefit, the class member may file a written claim with the EEOP Director within thirty (30) cal-

45 CFR Ch. XII (10–1–24 Edition)

endar days of notification by the agency of its decision.

(c) The claim must include a specific, detailed statement showing that the claimant is a class member who was affected by an action or matter resulting from the discriminatory policy or practice which arose not more than 30 days preceding the filing of the class complaint.

(d) The Agency shall attempt to resolve the claim within sixty (60) calendar days after the date the claim was postmarked, or in the absence of a postmark, within sixty (60) calendar days after the date it was received by the EEOP Director.

§ 1225.20 Claim appeals.

(a) If the EEOP Director and claimant do not agree that the claimant is a member of the class, or upon the relief to which the claimant is entitled, the EEOP Director shall refer the claim, with recommendations concerning it, to the CEO or their designee for a Final Agency Decision and shall so notify the claimant. The class member may submit written evidence to the CEO or their designee concerning his or her status as a member of the class. Such evidence must be submitted no later than ten (10) calendar days after receipt of referral.

(b) The CEO or their designee shall decide the issue within thirty (30) days of the date of referral by the EEOP Director. The claimant shall be informed in writing of the decision and its basis and that it will be the Final Agency Decision of the issue.

§ 1225.21 Judicial review.

(a) An applicant, candidate, member or volunteer is authorized to file a civil action in an appropriate U.S. District Court:

(1) Within thirty (30) calendar days of his or her receipt of the notice of final action taken by the agency; or

(2) After one hundred eighty (180) calendar days from the date of filing a formal discrimination complaint with the agency if there has been no final agency action.