

## **§ 2556.345**

### **§ 2556.345 Who may present a grievance?**

(a) Under the VISTA program grievance procedure, a grievance may be presented by any individual who is currently enrolled in the VISTA program or who was enrolled in the VISTA program within the past 30 calendar days.

(b) A VISTA's grievance may not be construed as reflecting on the VISTA's standing, performance, or desirability as a VISTA.

(c) A VISTA who presents a grievance may not be subjected to restraint, interference, coercion, discrimination, or reprisal because of presentation of views.

### **§ 2556.350 What matters are considered grievances?**

(a) Under the VISTA program grievance procedure, grievances are matters of concern, brought by a VISTA, that arise out of, and directly affect, the VISTA's service situation or that arise out of a violation of a policy, practice, or regulation governing the terms or conditions of the VISTA's service, that result in the denial or infringement of a right or benefit to the VISTA member.

(b) Matters not within the definition of a grievance as defined in paragraph (a) of this section are not grievable, and therefore, are excluded from the VISTA program grievance procedure. Though not exhaustive, examples of matters excluded from the VISTA program grievance procedure are:

(1) Matters related to a sponsor's or project's continuance or discontinuance; the number of VISTAs assigned to a VISTA project; the increases or decreases in the level of support provided to a VISTA project; the suspension or termination of a VISTA project; or the selection or retention of VISTA project staff;

(2) Matters for which a separate administrative procedure or complaint process is provided, such as early termination for cause, claims of discrimination during service, and Federal worker's compensation claims filed for illness or injury sustained in the course of carrying out VISTA activities;

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(3) Matters related to the content of any law, published rule, regulation, policy, or procedure;

(4) Matters related to housing during a VISTA member's service;

(5) Matters which are, by law, subject to final administrative review outside AmeriCorps;

(6) Matters related to actions taken, or not taken, by a VISTA sponsor or subrecipient, or AmeriCorps, in compliance with or in order to fulfill the terms of a contract, grant, or other agreement related to the VISTA program; or

(7) Matters related to the internal management of AmeriCorps, unless such matters are shown to specifically and directly affect the VISTA's service situation or terms or conditions of their VISTA service.

### **§ 2556.355 May a VISTA have access to records as part of the VISTA grievance procedure?**

(a) A VISTA is entitled to review any material in their official VISTA 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 materials that may be withheld include references obtained under pledge of confidentiality, official VISTA files of other VISTAs, and privileged intra-agency documents.

(b) A VISTA may review relevant materials in the possession of a sponsor to the extent such materials are disclosable by the sponsor under applicable Freedom of Information Act and privacy laws.

### **§ 2556.360 How may a VISTA bring a grievance?**

(a) *Bringing a grievance—Step 1.* (1) If a VISTA is currently enrolled in the VISTA program or was enrolled in the VISTA program within the past 30 calendar days, they may, within 15 calendar days of an event giving rise to a grievance or within 15 calendar days after becoming aware of such an event, bring a grievance to the sponsor or subrecipient where they are assigned to serve. If the grievance arises out of a continuing condition or practice that individually affects a VISTA, the VISTA may bring it at any time during

their enrollment that they are affected by the continuing condition or practice.

(2) A VISTA brings a grievance by presenting it in writing to the executive director, or comparable individual, of the sponsoring organization where the VISTA is assigned or to the sponsor's representative who is designated to receive grievances from a VISTA.

(3) The sponsor must review and respond in writing to the VISTA's grievance within 10 calendar days of receipt of the written grievance. The sponsor may not fail to respond to a complaint raised by a VISTA on the basis that it is not an actual grievance, or that it is excluded from coverage as a grievance, but may, in the written response, dismiss the complaint and refuse on either of those grounds to grant the requested relief.

(4) If the grievance brought by a VISTA involves a matter over which the sponsor has no substantial control or if the sponsor's representative is the supervisor of the VISTA, the VISTA may pass over the procedure set forth in paragraphs (a)(1) through (3) of this section and present the grievance in writing directly to the Deputy Regional Administrator, as described in paragraph (b) of this section.

(b) *Bringing a grievance—Step 2.* (1) If, after a VISTA brings a grievance as set forth in paragraphs (a)(1) and (2) of this section, the matter is not resolved, they may submit the grievance in writing to the appropriate Deputy Regional Administrator. The VISTA must submit the grievance to the Deputy Regional Administrator either:

(i) Within seven calendar days of receipt of the sponsor's response; or,

(ii) In the event the sponsor does not issue a response to the VISTA within 10 calendar days of its receipt of the written grievance, within 17 calendar days of the sponsor's receipt of the written grievance.

(2) If the grievance involves a matter over which either the sponsor or sub-recipient has no substantial control, or if the sponsor's representative is the supervisor of the VISTA, as described in paragraph (a)(4) of this section, the VISTA may pass over the procedure set forth in paragraphs (a)(1) through (3) of this section, and submit the grievance

in writing directly to the Deputy Regional Administrator. In such a case, the VISTA must submit the grievance to the Deputy Regional Administrator within 15 calendar days of the event giving rise to the grievance occurs, or within 15 calendar days after becoming aware of the event.

(3) Within ten working days of receipt of the grievance, the Deputy Regional Administrator will respond in writing, regardless of whether or not the matter constitutes a grievance as defined under this grievance procedure and/or is timely submitted. In the response, the Deputy Regional Administrator may determine that the matter submitted as a grievance is not grievable, is not considered a grievance, or fails to meet the time limit for response. If the Deputy Regional Administrator makes any such determination, they may dismiss the complaint, setting forth the reason(s) for the dismissal. In such a case, the Deputy Regional Administrator need not address the complaint on the merits, nor make a determination of the complaint on the merits.

#### **§2556.365 May a VISTA appeal a grievance?**

(a) A VISTA may appeal the Deputy Regional Administrator's response to the grievance under §2556.360(b)(3) by submitting a written appeal to the appropriate Regional Administrator. To be eligible to appeal a grievance response to the Regional Administrator, the VISTA must first have exhausted all appropriate actions as set forth in §2556.360.

(b) A VISTA's grievance appeal must be in writing, contain sufficient detail to identify the subject matter of the grievance, specify the relief requested, and be signed by the VISTA.

(c) A VISTA must submit a grievance appeal to the appropriate Regional Administrator no later than 10 calendar days after the Deputy Regional Administrator issues their response to the grievance.

(d) Certain matters contained in a grievance appeal may be rejected, rather than denied on the merits, by the Regional Administrator. A grievance appeal may be rejected, in whole or in part, for any of the following reasons: