

§ 1210.1-2 Scope.

(a) This part applies to all Trainees and Volunteers enrolled under part A of Title I of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, as amended, (42 U.S.C. 4951 *et seq.*) (hereinafter the "Act") and full-time Volunteers serving under part C of title I of the Act.

(b) This part does not apply to the medical separation of any Trainee or Volunteer. Separate procedures, as detailed in the VISTA Handbook, are applicable for such separations.

§ 1210.1-3 Definitions.

(a) *Trainee* means a person enrolled in a program under part A of Title I of the Act or for full-time volunteer service under part C of Title I of the Act who has reported to training but has not yet completed training and been assigned to a project.

(b) *Volunteer* means a person enrolled and currently assigned to a project as a full-time Volunteer under part A of title I of the Act, or under part C of title I of the Act.

(c) *Sponsor* means a public or private nonprofit agency to which ACTION has assigned Volunteers.

(d) *Hearing Examiner* or *Examiner* means a person having the qualifications described in Appendix A who has been appointed to conduct an inquiry with respect to a termination.

(e) *National Grant Program* means a program operated under part A, title I of the Act in which ACTION has awarded a grant to provide the direct costs of supporting VISTA Volunteers on a national or multi-regional basis. VISTA Volunteers may be assigned to local offices or project affiliates. The national grantee provides overall training, technical assistance and management support for project operations.

(f) *Local component* means a local office or project affiliate of a national grantee to which VISTA Volunteers are assigned under the VISTA National Grants Program.

(g) *Termination* means the removal of a Volunteer from VISTA service by ACTION, and does not refer to removal of a Volunteer from a particular project which has been requested by a sponsor or Governor under § 1210.3-2.

(h) *Deselection* means the removal of a Trainee from VISTA service by ACTION.

Subpart B—VISTA Trainee Deselection**§ 1210.2-1 Grounds for deselection.**

ACTION may deselect a Trainee out of a training program for any of the following reasons:

(a) Failure to meet training selection standards which includes, but is not limited to, the following conduct:

(1) Inability or refusal to perform training assignments;

(2) Disruptive conduct during training sessions;

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

(c) Violation of any provision of the Domestic Volunteer Service Act of 1973, as amended, or any ACTION policy, regulation, or instruction;

(d) Intentional false statement, omission, fraud, or deception in obtaining selection as a Volunteer; or

(e) Refusal to accept Volunteer Placement.

§ 1210.2-2 Procedure for deselection.

(a) The Regional Director or designee shall notify the Trainee in writing that ACTION intends to deselect the Trainee. The notice must contain the reasons for the deselection and indicate that the Trainee has 5 days to appeal.

(b) The Trainee is placed on Administrative Hold at the time of the notice of deselection.

(c) The Trainee has 5 days after receipt of the notice to appeal in writing to the Regional Director, or designee specified in the notice, furnishing any supportive documentation. In the appeal letter, the Trainee may request an opportunity to present his or her case in person.

(d) If the Trainee does not respond to the notice, deselection becomes effective at the expiration of the Trainee's time to appeal.

(e) Within 5 days after receiving the Trainee's appeal, if no personal presentation is requested, the Regional Director or designee must issue a decision. If a personal presentation is requested, the Regional Director or designee must

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schedule it within 5 days, and must issue a decision 5 days after such presentation. In either case, the decision of the Regional Director or designee is final.

Subpart C—VISTA Volunteer Early Termination

§ 1210.3-1 Grounds for termination.

ACTION may terminate or suspend a Volunteer based on the Volunteer's conduct for the following reasons:

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

(b) Violation of any provision of the Domestic Volunteer Service Act of 1973, as amended, or any ACTION policy, regulation, or instruction;

(c) Failure refusal or inability to perform prescribed project duties as outlined in the Project Narrative and/or volunteer assignment description and as directed by the sponsoring organization to which the Volunteer is assigned;

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

(e) Intentional false statement, omission, fraud, or deception in obtaining selection as a Volunteer;

(f) Any conduct on the part of the Volunteer which substantially diminishes his or her effectiveness as a VISTA Volunteer; or

(g) Unsatisfactory performance of Volunteer assignment.

§ 1210.3-2 Removal from project.

(a) Removal of a Volunteer from the project assignment may be requested and obtained by a written request supported by a statement of reason by:

(1) The Governor or chief executive officer of the State or similar jurisdiction in which the Volunteer is assigned or,

(2) The sponsoring organization. The sole responsibility for terminating or transferring a Volunteer rests with the ACTION Agency.

(b) A request for removal of a Volunteer must be submitted to the ACTION State Director, who will in turn notify the Volunteer of the request. The State Director, after discussions with the Volunteer and in consultation with the

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Regional Director, if necessary, has 15 days to attempt to resolve the situation with the sponsor or the Governor's office. If the situation is not resolved at the end of the 15 day period, the Volunteer will be removed from the project and placed on Administrative Hold, pending a decision as set forth in paragraph (c) of this section.

(c) The State office will take one of the following actions concerning a Volunteer who has been removed from a project assignment:

(1) Accept the Volunteer's resignation;

(2) If removal was requested for reasons other than those listed in § 1210.3-1, ACTION will attempt to place the Volunteer on another project. If reassignment is not possible, the Volunteer will be terminated for lack of suitable assignment, and he or she will be given special consideration for reinstatement; or

(3) If removal from the project is approved based on any of the grounds for early termination as set forth in § 1210.3-1, the Volunteer may appeal the termination grounds as detailed in subpart C of this part to establish whether such termination is supported by sufficient evidence. If ACTION determines that the removal based on grounds detailed in § 1210.3-1 is not established by adequate evidence, then the procedures outlined in § 1210.3-2(c)(2) will be followed.

(d) A Volunteer's removal during a term of service may also occur as a result of either the termination of, or refusal to renew, the Memorandum of Agreement between ACTION and the sponsoring organization, or the termination or completion of the initial Volunteer assignment. In such cases, the Volunteer will be placed in Administrative Hold status while the Regional Office attempts to reassign the Volunteer to another project. If no appropriate reassignment within the Region is found within the Administrative Hold period, the Volunteer will be terminated but will receive special consideration for reinstatement as soon as an appropriate assignment becomes available. If appropriate reassignment is offered the Volunteer and declined, ACTION has no obligation to offer additional or alternative assignments.