

**§ 1210.3-8**

portions of the testimony shall be made part of the record of proceedings. When agreed to in writing, the summary constitutes the report of the hearing. If the Examiner and the parties fail to agree on the hearing summary, the parties are entitled to submit written exceptions to any part of the summary, and these written exceptions and the summary will constitute the report of the hearing and shall be made part of the record of proceedings.

(3) The Volunteer may make a recording of the hearing at the Volunteer's own expense if no verbatim transcript is made.

**§ 1210.3-8 Termination file and Examiner's report.**

(a) *Preparation and Content.* The Examiner shall establish a termination file containing documents related to the termination, including statements of witnesses, records or copies thereof, and the report of the hearing when a hearing was held. The Examiner shall also prepare a report of findings and recommendations which shall be made part of the termination file.

(b) *Review by Volunteer.* On completion of the termination file, the Examiner shall make it available to the Volunteer and representative for review and comment before submission to the Director of VISTA. Any comments by the Volunteer or representative should be submitted to the Hearing Examiner for inclusion in the termination file not later than 5 days after the file is made available to them. The comments should identify those parts of the Examiner's report which support the appeal.

(c) *Submission of termination file.* Immediately upon receiving the comments from the Volunteer the Hearing Examiner shall submit the termination file to the Director of VISTA.

**§ 1210.3-9 Decision by Director of VISTA.**

The Director of VISTA shall issue a written decision, including a statement of the basis for the decision, within 10 days after receipt of the termination file. The decision of the Director of VISTA is the final Agency decision.

**45 CFR Ch. XII (10-1-06 Edition)**

**§ 1210.3-10 Reinstatement of Volunteer.**

(a) If the Regional Director or Director of VISTA reinstates the Volunteer, the Regional Director may at his or her discretion reassign the Volunteer to the Volunteer's previous project or to another project. The Regional Director, in making such a decision, must request the Volunteer's views, but has the final decision on the Volunteer's placement.

(b) If the Volunteer's termination is reversed, stipend and other allowances lost during the appeal period will be paid retroactively.

**§ 1210.3-11 Disposition of termination and appeal files.**

All termination and appeal files shall be forwarded to the Director of VISTA after a final decision has been made and are subject to the provisions of the Privacy Act and Freedom of Information Act. No part of any successful termination appeal may be made part of, or included in, a Volunteer's official folder.

**Subpart D—National Grant Trainees and Volunteers**

**§ 1210.4 Early termination procedures for National Grant Trainees and Volunteers.**

Trainees and Volunteers serving in the National Grant Program as defined in §1210.1-3(e) will be subject to the same termination procedure as standard VISTA Trainees and Volunteers with the following exceptions:

(a) For Trainees, the deselection procedure, [See §1210.2-2] will be handled by the Project Manager in ACTION/Headquarters.

(b) The Initiation of termination, [See §1210.3-4 (a) and (b)] will be handled by the VISTA Project Manager in ACTION/Headquarters, with the concurrence of the appropriate State Director. The Review and Notice of Decision, [See §1210.3-4(c)] will be handled by the VISTA Project Manager in ACTION/Headquarters.

(c) The Appeal of termination, [See §1210.3-6(a)] will be handled by the Chief of VISTA Branch and not the Regional Director.

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(d) The final decision on a Volunteer appeal will be made by the Director of VISTA as provided in § 1210.3.

### APPENDIX A TO PART 1210—STANDARD FOR EXAMINERS

(a) An Examiner must meet the requirements specified in either paragraph (1), (2), (3), or (4) of this appendix:

(1)(a) Current employment in Grades GS-12 or equivalent, or above;

(b) Satisfactory completion of a specialized course of training prescribed by the Office of Personnel Management for Examiners;

(c) At least four years of progressively responsible experience in administrative, managerial, professional, investigative, or technical work which has demonstrated the possession of:

(i) The personal attributes essential to the effective performance of the duties of an Examiner, including integrity, discretion, reliability, objectivity, impartiality, resourcefulness, and emotional stability.

(ii) A high degree of ability to:

—Identify and select appropriate sources of information; collect, organize, analyze and evaluate information; and arrive at sound conclusions on the basis of that information;

—Analyze situations; make an objective and logical determination of the pertinent facts; evaluate the facts; and develop practical recommendations or decisions on the basis of facts;

—Recognize the causes of complex problems and apply mature judgment in assessing the practical implications of alternative solutions to those problems;

—Interpret and apply regulations and other complex written material;

—Communicate effectively orally and in writing, including the ability to prepare clear and concise written reports; and

—Deal effectively with individuals and groups, including the ability to gain the cooperation and confidence of others.

(iii) A good working knowledge of:

—The relationship between Volunteer administration and overall management concerns; and

—The principles, systems, methods and administrative machinery for accomplishing the work of an organization.

(2) Designation as an arbitrator on a panel of arbitrators maintained by either the Federal Mediation and Conciliation Service or the American Arbitration Association.

(3) Current or former employment as, or current eligibility on the Office of Personnel Management's register for Hearing Examiner, GS-935-0.

(4) Membership in good standing in the National Academy of Arbitrators.

(b) A former Federal employee who, at the time of leaving the Federal service, was in Grade GS-12 or equivalent, or above, and

who meets all the requirements specified for an Examiner except completion of the prescribed training course, may be used as an Examiner upon satisfactory completion of the training course.

### PART 1211—VOLUNTEER GRIEVANCE PROCEDURES

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### APPENDIX A TO PART 1211—STANDARDS FOR EXAMINERS

AUTHORITY: Secs. 104(d), 402(14), 420, Pub. L. 93-113, 87 Stat. 398, 407, and 414.

SOURCE: 45 FR 39271, June 10, 1980, unless otherwise noted.

#### § 1211.1-1 Purpose.

This part establishes procedures under which certain volunteers enrolled under Pub. L. 93-113 may present and obtain resolution of grievances.

#### § 1211.1-2 Applicability.

This part applies to all volunteers enrolled under part A of title I of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, (42 U.S.C. 4951 *et seq.*).

#### § 1211.1-3 Definitions.

(a) *Volunteer* means a person enrolled and currently serving as a full-time volunteer under part A of title I of the Domestic Volunteer Service Act of 1973. For the purpose of this part, a volunteer whose service has terminated