

working days after receipt of the decision of the sponsor's chief executive officer. The State Director or designee may not refuse to receive a complaint, even if he or she believes it does not constitute a grievance, and shall respond to it in writing within five (5) working days after receipt. The response may indicate that the matter is not grievable. If the State Director or designee fails to meet the time limit for response, the volunteer may initiate a formal grievance.

(c) *Discussion.* All parties to the informal grievance procedure must be prepared to participate in full discussion of the grievance, and to permit the participation of others who may have knowledge of the circumstances of the grievance in the discussion. State Program Officers and other ACTION employees may participate in discussions and provide guidance with respect to ACTION policies and procedures, at the request of any party, even prior to submission of a grievance to them.

(d) *Sponsor grievance procedure.* A sponsor may substitute its own grievance procedure for the procedure described in paragraph (a) of this section. Any such procedure must provide the volunteer with an opportunity to present a grievance at least as comprehensive as that contained in this section, must meet the time limits of this section, and must be provided in writing to all volunteers. In order to utilize its own grievance procedures, the sponsor must obtain approval of the procedure from the ACTION State Director and file a copy of this approved procedure with the State Office.

§ 1211.1-11 Initiation of formal grievance procedure.

(a) *Submission of grievance to Regional Director.* If a volunteer is dissatisfied with the response of the State Director or designee required by § 1211.1-10(b), he or she may present the grievance in writing to the Regional Director. To be eligible for the formal grievance procedure, the volunteer must have completed action under the informal procedure contained in § 1211.1-10 or have alleged that the State Director or designee exceeded the time specified for response.

(b) *Contents of grievance.* The volunteer's grievance must be in writing, contain sufficient detail to identify the subject matter of the grievance, specify the relief requested, and be signed by the volunteer or a person designated in writing by the volunteer to be the representative for the purpose of the grievance.

(c) *Time limit.* The volunteer must submit the grievance to the Regional Director or designee no later than 15 calendar days after receipt of the informal response by the State Director or designee. If no response is received by the volunteer 15 calendar days after the grievance is received by the State Director or designee, the volunteer may submit the grievance directly to the Regional Director or designee for consideration.

(d) *Within ten (10) working days of the receipt of the grievance, the Regional Director or designee shall, in whole or in part, either decide it on its merits or reject the grievance.* A grievance may be rejected, in whole or in part, for the following reasons:

(1) It was not filed within the time limit specified in paragraph (c) of this section, or

(2) The grievance consists of matters not contained within the definition of a grievance.

(e) *Rejection of a grievance by the Regional Director or designee may be appealed by the volunteer within ten (10) days of receipt of the notice to the Office of General Counsel.* The Office shall immediately request the grievance file from the Regional Director and, within five (5) working days of receipt of it, determine the appropriateness of the rejection. If the grievance was properly rejected by the Regional Director, the Office shall so notify the volunteer of its opinion and the reasons supporting it, and that such rejection is the final Agency decision in the matter. If the Office determines that the grievance was improperly rejected, it shall return the grievance to the Regional Director for a determination on its merits by the Regional Director. Within ten (10) working days of such notification and receipt of the grievance file, the Regional Director or designee shall notify the volunteer in writing of the decision on the merits and specify the grounds

for the decision and of the volunteer's right to appeal.

(f) *Time Limit.* If a volunteer is dissatisfied with the decision of the Regional Director or designee on the merits of the grievance, he or she shall notify the Regional Director within five (5) calendar days from receipt of the decision and request the appointment of an Examiner. If the volunteer receives no response from the Regional Director or Office of General Counsel as required by paragraphs (d) and (e) of this section within five (5) calendar days after the prescribed time limits, the volunteer may request in writing that the Regional Director appoint a Grievance Examiner. Upon receipt of this request, the Regional Director or designee shall appoint within five (5) calendar days an Examiner who shall possess the qualifications specified in Appendix A to this part.

§ 1211.1-12 Investigation by Grievance Examiner.

(a) *Scope of investigation.* The Examiner shall conduct an investigation of a nature and scope appropriate to the issues involved in the grievance.

Unless waived by the volunteer, a hearing must be held if the Examiner finds that the grievance involves disputed questions of fact that go to the heart of the agency determination. Only those facts found necessary by the Examiner on which to base his or her findings go to the heart of the Agency determination.

If the grievance does not involve such disputed questions of fact, or if the volunteer waives a hearing, the Examiner need not hold a hearing but must provide the parties an opportunity for presentation of their respective positions. At the Examiner's discretion, the investigation may include:

- (1) The securing of documentary evidence,
- (2) Personal interviews, including telephone interviews,
- (3) Group meetings,
- (4) Affidavits, written interrogatories or depositions.

(b) *Conduct of Hearing.* If a hearing is held, the conduct of the hearing and production of witnesses shall conform with the following requirements:

(1) The hearing shall be held at a time and place determined by the Examiner who shall consider the convenience of parties and witnesses and expense to the Government in making his or her decision.

(2) Attendance at the hearing will be limited to persons determined by the Examiner to have a direct connection with the grievance. If requested by the volunteer, the Examiner must open the hearing to the public.

(3) The hearing shall be conducted so as to bring out pertinent facts, including the production of pertinent records.

(4) Formal rules of evidence shall not be applied strictly, but the Examiner may exclude irrelevant or unduly repetitious testimony or evidence.

(5) Decisions on the admissibility of evidence or testimony shall be made by the Examiner.

(6) Testimony shall be under oath or affirmation, administered by the Examiner.

(7) The Examiner shall give the parties an opportunity to present oral and written testimony that is relevant and material, and to cross-examine witnesses who testify.

(8) The Examiner may exclude any person from the hearing for conduct that obstructs the hearing.

(c) *Witnesses.* (1) All parties are entitled to produce witnesses.

(2) Volunteers, employees of a sponsor, and employees of ACTION shall be made available as witnesses when requested by the Examiner. The Examiner may request witnesses on his or her initiative. Parties shall furnish to the Examiner and to opposing parties a list of proposed witnesses, and an explanation of what the testimony of each is expected to show, at least ten (10) calendar days before the date of the hearing. The Examiner may waive the time limit in appropriate circumstances.

(3) Employees of ACTION shall remain in a duty status during the time they are made available as witnesses.

(4) Volunteers, employees and any other persons who serve as witnesses shall be free from coercion, discrimination or reprisal for presenting their testimony.

(5) The Examiner must authorize payment of travel expenses and per