

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 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 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.

§ 1210.3-3 Suspension.

(a) The ACTION State Director may suspend a Volunteer for up to 30 days in order to determine whether sufficient evidence exists to start termination proceedings against the Volunteer. Suspension is not warranted if the State Director determines that sufficient grounds already exist for the initiation of termination. In that event, the termination procedures contained in §1210.3-4 will be followed.

(b) Notice of suspension may be written or verbal and is effective upon delivery to the Volunteer. Within 3 days after initiation of the suspension, the Volunteer will receive a written notice of suspension setting forth in specific detail the reason for the suspension. During the suspension period the Volunteer may not engage in project activities, but will continue to receive all allowances, including stipend.

(c) At the end of the suspension period, the Volunteer must either be re-assigned to a project, or termination proceedings must be initiated.

§ 1210.3-4 Initiation of termination.

(a) *Opportunity for Resignation.* In instances where ACTION has reason to believe that a Volunteer is subject to termination for any of the grounds cited in §1210.3-1, an ACTION staff member will discuss the matter with the Volunteer. If, after the discussion, the staff member believes that grounds for termination exist, the Volunteer will be given an opportunity to resign. If the Volunteer chooses not to resign, the administrative procedures outlined below will be followed.

(b) *Notification of Proposed Termination.* The Volunteer will be notified, in writing by certified mail, of ACTION's intent to terminate him or her by the ACTION State Director at least 15 days in advance of the proposed termination date. The letter must give the reasons for termination, and notify the Volunteer that he or she has 10 days within which to answer in writing and to furnish any affidavits or written material. This answer must be submitted to the ACTION State Director or a designee identified in the notice of proposed termination.

(c) *Review and Notice of Decision.* (1) Within 5 working days after the date of