

DELETE POLICY

INTRODUCTION

The following grievance procedures and guidelines shall be used concerning projects that receive financial assistance under the National and Community Service Grant Program, Subchapter I of the National and Community Service Trust Act, 42 U.S.C.A. 12501, et. seq., but only to the extent required by that act, 42 U.S.C.A. 12636. Such financial assistance is normally derived directly or indirectly from funds provided by the Corporation for National and Community Service.

FRAUD OR CRIMINAL ACTIVITY

If any grievance alleges fraud or criminal activity, it shall be brought to the attention of the inspector general of the Corporation for National and Community Service immediately.

INFORMAL ALTERNATIVE DISPUTE RESOLUTION (ADR)

The grievant may seek resolution for a grievance through alternative means of dispute resolution (ADR), such as mediation. ADR proceedings must be initiated within 45 calendar days of the date of the alleged occurrence. Any request for informal dispute resolution shall be forwarded by the grievant to the Superintendent or the director for employee relations, as the Superintendent's designee. The Superintendent or designee shall cooperate in good faith with the grievant in order to determine the identity of the neutral party to serve as a mediator. At the initial session of the ADR proceedings, the grievant must be advised in writing of the right to file a formal grievance, and the right to arbitration in the event that the formal grievance is not resolved to the grievant's satisfaction. If the matter is resolved through ADR, the grievant will agree to forego filing a formal grievance in the matter under consideration. If ADR is instituted, the process must be aided by a neutral party, who, with respect to any issue in controversy, functions specifically to aid the parties in resolving the matter through a mutually achieved and acceptable written agreement. The neutral party may not compel a resolution. Proceedings before the neutral party must be informal, and the rules of evidence will not apply. With the exception of a written and agreed-upon ADR resolution, the proceeding must be confidential. Any decision by the neutral party is advisory and is not binding unless both parties agree. If the informal grievance is not resolved within 30 calendar days of initiation, the neutral party again shall inform the grievant of his or her right to file a formal grievance.

FORMAL GRIEVANCE PROCEEDING

Except for a grievance that alleges fraud or criminal activity, a formal grievance must be filed no later than one year after the date of the alleged occurrence. If a hearing is held on a grievance, it must be conducted no later than 30 calendar days after the filing of such grievance. A final decision by the Board on any such filed grievance must be made no later than 60 days after filing. In the event

a grievant files a formal grievance after participating in an informal dispute resolution process, the neutral party may not participate in the formal grievance proceeding. In addition, no communication or proceedings of the informal dispute resolution process may be referred to or introduced into evidence as part of the formal grievance or arbitration proceedings. To the extent consistent herewith, the procedural provisions of other District policies governing grievances or complaints shall apply, depending on whether the grievant is an employee, student, parent, or member of the public. [See (LEGAL) and (LOCAL) policies at DGBA, FNG, GF, respectively]

ARBITRATION

If there is an adverse decision against a grievant, or if no decision has been reached after 60 calendar days after the filing of the formal grievance, the grievant may submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected by, and independent of, the grievant and the District. If the parties cannot agree on an arbitrator within 15 calendar days after receiving a request from the grievant, the Corporation will appoint an arbitrator from a list of qualified arbitrators. An arbitration proceeding must be held no later than 45 days after the request for arbitration, or if the arbitrator is appointed by the Corporation, the proceeding must occur no later than 30 calendar days after the arbitrator's appointment. A decision must be made by the arbitrator no later than 30 calendar days after the date the arbitration proceeding begins. In accordance with 42 U.S.C. 12636(f)(4)(D), the cost of the arbitration proceeding shall be divided evenly between the parties to the arbitration, unless the grievant prevails. If the grievant prevails, the District shall pay the total cost of the proceeding and any attorney's fees of the prevailing party incurred in connection with the ADR proceeding. Pursuant to 42 U.S.C. 12636(f)(7), a suit to enforce an arbitration award may be brought in the United States District Court for the Western District of Texas, El Paso Division, without regard to the amount in controversy or citizenship.

SUSPENSION OF
PLACEMENT

If a grievance is filed regarding a proposed placement of a participant in a program or project, such placement must not be made unless the placement is consistent with the resolution of the grievance.

REMEDIES

Remedies for a grievance filed under a procedure established hereunder may include:

1. Prohibition of a placement of a participant; and
2. In grievance cases where there is a violation of non-duplication or non-displacement requirements and the employer of the displaced employee is the District:

STATE AND FEDERAL REVENUE SOURCES
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(LOCAL)

- a. Reinstatement of the employee to the position he or she held prior to the displacement;
- b. Payment of lost wages and benefits;
- c. Re-establishment of other relevant terms, conditions and privileges of employment; and
- d. Any other equitable relief that is necessary to correct any violation of the nonduplication or nondisplacement requirements or to make the displaced employee whole.