

## **Nevada Outdoor School AmeriCorps Program Grievance Procedures**

### **A. Overview**

In the event that informal efforts to resolve disputes are unsuccessful, AmeriCorps members, labor unions, and other interested individuals may seek resolution through the following grievance procedures. AmeriCorps grievance procedures may include an optional component - alternative dispute resolution. The procedures must include a hearing and binding arbitration, if necessary.

The grievance procedures are intended to apply to service-related issues, such as assignments, evaluations, suspension or release for cause. In addition, individuals who are not selected as AmeriCorps members may utilize these procedures. Allegations of discrimination should be directed in writing to the Corporation's Office of Equal Opportunity. If the grievance alleges fraud or criminal activity, it must be immediately brought to the attention of the Nevada State Commission, CNCS, and the Corporation's Inspector General.

By law, a program must provide a grievance procedure to resolve disputes filed by AmeriCorps members, labor unions, and other interested persons such as AmeriCorps member applicants. The first step in filing a grievance is to complete the grievance form provided in the AmeriCorps member handbook and submit it to the AmeriCorps Director. The grievance procedure must include a hearing and binding arbitration, which include the following requirement elements.

### **B. Alternative Dispute Resolution (ADR)**

**1. Informal Resolution** - The aggrieved party may seek resolution of a grievance through alternative means of dispute resolution (ADR) such as mediation or facilitation. ADR proceedings must be initiated within 45 calendar days of the date of the alleged occurrence. The aggrieved party should present in writing a request for an ADR meeting to the AmeriCorps Director. At the initial session of the ADR proceedings, the party must be advised in writing of the right to file a grievance and right to arbitration. If the matter is resolved, and a written agreement is reached, the party will agree to forego filing a grievance in the matter under consideration.

**2. Neutral Facilitation** – If ADR is instituted, the process must be aided by a neutral party designated by Nevada Outdoor School AmeriCorps Program who, with respect to the 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. The neutral party must not have participated in any previous decisions concerning the issue in dispute. 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, the proceeding must be confidential. Any decision by the neutral party is advisory and is not binding unless both parties agree. If the grievance is not resolved within 30 calendar days of initiation, the neutral party again must inform the aggrieved party of his or her right to file a formal grievance. No communications or proceedings of ADR may be referred to or introduced into evidence at the grievance hearing or arbitration stages. The neutral party may not participate in subsequent proceedings.

### **C. Formal Grievance Proceeding**

**Time Limits** - Except for a grievance that alleges fraud or criminal activity, a grievance must be made 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 decision on any such filed grievance must be made no later than 60 days after the filing of the grievance.

### **D. Arbitration**

**1. Selection of Arbitrator** – If there is an adverse decision against the party who filed the grievance, or no decision has been reached after 60 calendar days after the filing of a grievance, the aggrieved party may submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected and who is independent of the interested parties. If the parties cannot agree on an arbitrator, within 15 calendar days after receiving a

request from one of the parties, the Corporation's Chief Executive Officer will appoint an arbitrator from a list of qualified arbitrators.

1. **Time Limits** - 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's Chief Executive Officer, 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.
2. **Cost** – In accordance with AmeriCorps regulations, the cost of the arbitration proceeding must be divided evenly between the parties to the arbitration. If the grievant prevails, the Grantee must pay the total cost of the proceeding and the attorney's fees of the prevailing party.

#### **E. Suspension of Placement**

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

#### **F. Remedies**

Remedies for a grievance filed under a procedure established by Nevada Outdoor School AmeriCorps Program may include:

1. prohibition of a placement of a member; 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 Nevada Outdoor School AmeriCorps Program:
  - 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 non-duplication or non-displacement requirements or to make the displaced employee whole.

#### **G. Effect of Non-compliance with arbitration**

A suit to enforce an arbitration award may be brought in any federal district court having jurisdiction over the parties without regard to the amount in controversy or citizenship.