

AmeriCorps Grievance Procedure

Grievance procedures have been established by the AmeriCorps program to resolve disputes involving AmeriCorps Members, labor unions, and any other interested individual concerning the AmeriCorps program. If a grievance is filed regarding a proposed placement of a participant such placement must not be made unless the placement is consistent with the resolution of the grievance.

Pre-Complaint Process

In general, all aggrieved parties such as members, applicants, or any other interested parties should attempt to resolve any problems or disputes with the other party on a one-to-one basis. In the event that informal efforts to resolve disputes are unsuccessful, the aggrieved party may request that the program provide an Alternative Dispute Resolution process (ADR) such as mediation or facilitation to resolve the dispute. ADR proceedings must be initiated within 45 calendar days of the alleged occurrence. At the initial session of the dispute resolution proceedings, the party must be advised in writing of his or her 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 forgo filing a grievance on the matter under consideration.

If mediation, facilitation, or other ADR processes are selected, the process must be aided by a neutral party who may not compel a resolution. Proceedings before the neutral party must be informal, and the rules of evidence do not apply. Apart from a written and agreed-upon dispute resolution agreement, the proceedings must be confidential. If the matter is not resolved within 30 calendar days from the date the ADR began, the neutral party must inform the aggrieving party of the right to file a grievance. In the event an aggrieving party files a grievance, the neutral party may not participate in the formal complaint process, and no communications or proceedings from the ADR may be referred to or introduced into evidence at the grievance and arbitration hearing. Any decision by the neutral party is advisory and is not binding unless both parties agree.

Formal Complaint Process

The aggrieved party may request a grievance hearing without participating in ADR or if the ADR process fails to facilitate a mutually agreeable resolution. The aggrieved party should make a written request for a hearing to:

Amber Werner, AmeriCorps Program Director
Michiana Area Council of Governments
227 W Jefferson Blvd, Suite 1120
South Bend, IN 46601
awerner@macog.com

In the event that the grievance is against the individual listed above, the aggrieved party should make a written request for a hearing to:

James Turnwald, Executive Director
Michiana Area Council of Governments
227 W Jefferson Blvd, Suite 1120
South Bend, IN 46601
jturnwald@macog.com

Except for a grievance that alleges fraud or criminal activity, a request for a grievance hearing must be made within one year after the date of the alleged occurrence. The hearing must be conducted no later than 30 calendar days after the filing of the grievance, and a written decision must be made no later than 60 calendar days after the filing. The person conducting the grievance hearing may not have participated in any previous decisions concerning the issue in dispute.

Arbitration

An aggrieved party may request binding arbitration if a grievance hearing decision is averse to the aggrieved party or if no decision has been reached within 60 days of the filing of the grievance. The arbitrator must be independent of the interested parties and the interested parties must jointly select the arbitrator. If the parties cannot agree on an arbitrator within 15 calendar days after receiving a request from one of the disputing parties, the AmeriCorps' Chief Executive Officer (CEO) will appoint an arbitrator from a list of qualified arbitrators. An arbitration proceeding must be held no later than 45 calendar days after the request for arbitration, or, if the arbitrator is appointed by the 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 arbitration commences. The cost of the arbitration proceeding must be divided evenly between the parties to the arbitration. If, however, a participant, labor organization, or other interested individual prevails under a binding arbitration proceeding, the state or local applicant that is party to the grievance must pay the total cost of the proceeding and the attorney's fees of the prevailing party.

Suspension of placement

If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this chapter, such placement must not be made unless the placement is consistent with the resolution of the grievance.

Remedies for a grievance filed under a procedure established by a recipient of Corporation assistance may include:

1. Prohibition of a placement of a participant
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 recipient of Corporation assistance—
3. Reinstatement of the employee to the position he or she held prior to the displacement;
4. Payment of lost wages and benefits;
5. Re-establishment of other relevant terms, conditions and privileges of employment;
6. 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.

The Corporation may suspend or terminate payments for assistance under this chapter. A suit to enforce arbitration awards may be brought in any Federal district court having jurisdiction over the parties without regard to the amount in controversy or the parties' citizenship.