

Imports, Reporting and recordkeeping requirements, Steel.

Dated: December 23, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement & Compliance.*

For reasons discussed in the preamble, 19 CFR part 360 is amended as follows:

## **PART 360—STEEL IMPORT MONITORING AND ANALYSIS SYSTEM**

■ 1. The authority citation for part 360 continues to read as follows:

**Authority:** 13 U.S.C. 301(a) and 302.

■ 2. Section 360.105 is revised to read as follows:

### **§ 360.105 Duration of the steel import licensing requirement.**

The licensing program will be in effect through March 21, 2022, but may be extended upon review and notification in the **Federal Register** prior to this expiration date. Licenses will be required on all subject imports entered during this period, even if the entry summary documents are not filed until after the expiration of this program. The licenses will be valid for 10 business days after the expiration of this program to allow for the final filing of required Customs documentation.

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## **PEACE CORPS**

### **22 CFR Part 305**

**RIN 0420–AA26**

### **Eligibility and Standards for Peace Corps Volunteer Service**

**AGENCY:** Peace Corps.

**ACTION:** Final rule.

**SUMMARY:** The Peace Corps issues this final rule to restate and update the requirements for eligibility for Peace Corps Volunteer service, and the factors considered in the assessment and selection of eligible applicants for training and service. The requirements and factors for eligibility and selection were last published in 1984. A revision of the regulation is necessary to conform to changes in Federal laws and regulations, particularly with respect to those prohibiting discrimination on the basis of disability, and to reflect policy changes made by the Peace Corps.

**DATES:** The final rule is effective on January 5, 2017.

**FOR FURTHER INFORMATION CONTACT:** Anthony F. Marra, Associate General

Counsel, Peace Corps, 1111 20th Street NW., Washington, DC 20526.

### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

Under the Peace Corps Act (22 U.S.C. 2501 *et seq.*), the Peace Corps is authorized to enroll qualified U.S. citizens and nationals as Volunteers to serve abroad, under conditions of hardship if necessary, (i) to help the people of interested countries meet their need for trained manpower, particularly in meeting the basic needs of those living in the poorest areas of such countries, (ii) to help promote a better understanding of the American people on the part of the people served, and (iii) to help promote a better understanding of other peoples on the part of the American people. The Peace Corps is authorized to establish the terms and conditions of enrollment of Volunteers, as well as the terms and conditions of service. The Peace Corps published a proposed rule on July 31, 2015 (80 FR 45620) to revise and update the 30 year-old regulation concerning eligibility and selection standards for Peace Corps Volunteer service. The comment period for the proposed rule ended on August 31, 2015, and the Peace Corps received three comments.

#### **II. Summary of Rulemaking**

The revised rule will make the following changes:

(1) Introduction. The introductory section (22 CFR 305.1) provides new definitions for the three stages (Applicant, Trainee, and Volunteer) that an individual who is interested in service as a Volunteer passes through. It also provides a definition of the term “enrollment”, which is used in connection with an individual’s service as a Volunteer. The section includes a general statement explaining the process the Peace Corps follows in the selection of Volunteers and provides notice to applicants regarding the importance of submitting complete and accurate information in the application process. The section eliminates the recitation of the various anti-discrimination statutes that the Peace Corps is obligated to follow and replaces it with a clear statement that the Peace Corps does not discriminate on various grounds in the selection of Volunteers. Note that with regard to prohibiting discrimination on the basis of disability in the programs and activities of the Peace Corps, the agency is in the process of developing its section 504 implementing regulation and plans to coordinate the regulation’s development with the Department of Justice pursuant to the requirements of Executive Order 12250. The section

advises that applicants may be disqualified, and Volunteers and Trainees may be separated, if the Peace Corps determines they provided materially false, misleading, inaccurate, or incomplete information during the Peace Corps application process.

(2) Eligibility. The eligibility section (22 CFR 305.2) is simplified to address only the existing citizenship and age criteria for Volunteer applicants. Other eligibility factors in the current § 305.2 are moved to succeeding sections, where they are updated and expanded.

(3) Selection Standards. A revised § 305.3 incorporates the selection factors that previously appeared in § 305.4. The revision restates the attributes that an applicant must meet for Volunteer service. It revises the description of the various personal attributes that are taken into account when evaluating applicants. The revised § 305.3 explains that the Peace Corps assesses each applicant’s personal, professional, educational, and legal qualifications in order to select those applicants most likely to be successful in a Peace Corps assignment, serving under conditions of hardship if necessary, to achieve the goals of the Peace Corps. Meeting the several qualifications does not in and of itself entitle any individual to serve in the Peace Corps, because the revision states that the Peace Corps endeavors to select the best qualified individuals from among all eligible applicants.

(4) Medical Status. The revised part 305 creates a new § 305.4 that replaces the provision on the medical qualifications of applicants that previously appeared in § 305.2. The revised section implements, in relation to applications for Volunteer service, Section 504 of the Rehabilitation Act. It states that an applicant must have the physical and mental capacity required to meet the essential eligibility requirements for a Volunteer and sets out those essential eligibility requirements, which include the capability to:

A revised § 305.4(a)(1)(i)–(iii) addresses medical stat.

It also requires that, in order for an applicant to be medically qualified for Volunteer service, the Peace Corps must have the capability to provide necessary or appropriate health care for the applicant. It includes a requirement that the Peace Corps consider reasonable accommodations in determining whether an applicant has the physical and mental capacity required to meet the essential eligibility requirements for a Volunteer and whether the Peace Corps has the capability to provide necessary or appropriate health care for the applicant.

A new provision provides that an applicant must not pose a direct threat, which is defined as a significant risk to the health and safety of others that cannot be eliminated by reasonable accommodation, removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids or services.

The revisions include a requirement that an applicant's medical eligibility be based on an individualized assessment of the factors applicable to reasonable accommodations. An applicant determined not to be medically qualified for Volunteer service has a right to obtain a further review of the determination by a physician and, ultimately, by a review panel. In any case involving review of issues of mental health, at least one professional staff person from the Counseling and Outreach Unit also participates as a voting member of the review panel. The decision of the review panel, which is reviewed by the General Counsel for legal sufficiency, constitutes a final agency action and is not subject to further appeal.

(5) Legal Status. A new § 305.5 changes the eligibility qualifications for an applicant who is on parole or probation, previously covered in § 305.2(d), and reframes the eligibility standard in terms of the existence of an arrest or conviction record. The revision provides the Peace Corps with greater flexibility to consider the nature of the offense, how long ago the offense occurred, whether the applicant was acquitted of the offense, the terms of any applicable parole or probation, and other relevant facts or indications of rehabilitation. Specific standards will be established for drug and alcohol related offenses. An applicant rejected because of an arrest or conviction will have a right to have a review of the rejection by a more senior Peace Corps official outside of the office that made the original eligibility determination. The new provision will also eliminate the requirement that an applicant not have any court established financial or other obligation that cannot be satisfied or postponed during a Peace Corps service period.

(6) Intelligence Background. The Peace Corps has a longstanding policy to exclude from Volunteer service individuals who have engaged in intelligence activity or related work or who have been employed by or connected with an intelligence agency, either for a specific period of time or permanently (depending on the agency). This policy is founded on the premise that it is crucial to the Peace Corps in carrying out its mission that there be a

complete and total separation of the Peace Corps from the intelligence activities of the United States Government or any foreign government, both in reality and appearance.

The previous regulation contained a one-sentence statement in § 305.2(e) regarding the eligibility of applicants having a background with an intelligence agency or intelligence activities. It referred applicants to provisions of the Peace Corps Manual for more details. The new § 305.6 provides greater transparency for applicants regarding this policy.

The policy covers both employment (defined broadly) by an intelligence agency and engagement in intelligence activities. It applies to an employee of an intelligence agency even if the employee was not engaged in intelligence activities for the intelligence agency. An applicant who was employed by an intelligence agency (other than the CIA) or engaged in intelligence activities is barred from Peace Corps service for a minimum of 10 years. An applicant who was employed by the CIA is barred from Peace Corps service permanently.

The policy also applies to an applicant whose background discloses a relationship to an intelligence agency or intelligence activity, but who was not employed by an intelligence agency or engaged in intelligence activities. Such a relationship might be one based on familial, personal or financial connections to an intelligence agency or intelligence activities. In these cases, the period of ineligibility will be determined by the General Counsel based on a number of stated factors.

Serious doubts about an applicant's connection with intelligence agencies or activities are to be resolved in favor of exclusion. An applicant rejected based on an intelligence background criteria has a right to appeal the rejection to the Peace Corps Director.

(7) Special Circumstances. A new § 305.7 addresses special circumstances involving some applicants, which were previously covered in § 305.2(f), (g) and (h).

The former § 305.2(f) placed restrictions on Peace Corps Volunteer service for applicants who are married and who wish to serve without their spouse. These restrictions have been removed as they are no longer relevant to eligibility for Volunteer service. In addition, a new § 305.7(a) expressly provides that two applicants who are married or are in a same sex or opposite sex domestic partnership or committed relationship may apply to serve together. This codifies in regulation the Peace Corps policy on placement of

couples, including its recent policy to accept same-sex and opposite-sex couple applicants on an equal basis whether married, or unmarried and in a committed relationship/domestic partnership.

The former § 305.2(g) places restrictions on the ability of an applicant who has dependent children under the age of 18 to serve as a Peace Corps Volunteer. These restrictions have been removed because they are not relevant to the ability of an individual to serve as a Volunteer. However, a new provision has been added that generally prohibits dependents and other family members from accompanying a Volunteer during service. This provision permits the Peace Corps to make exceptions from time to time either on a case-by-case basis or for particular categories of Volunteers to the extent permitted by Federal law.

The previous policy on military service obligations of applicants that was contained in § 305.2(h) is continued in § 305.7(c), but the written statement from a commanding officer is no longer required.

(8) Background Investigation. Section 22 of the Peace Corps Act requires that applicants be investigated to ensure that their assignment "is consistent with the national interest." The Peace Corps previously satisfied this statutory requirement under § 305.3, which required a National Agency Check (NAC) and background investigation for all applicants. A NAC is a clearance conducted by the Federal Investigations Services of the U.S. Office of Personnel Management (OPM) and is the minimum clearance required for all civilian Federal employees. Peace Corps has required that Volunteer applicants be cleared through a NAC investigation for many years, in large part because it was initially the only feasible way to comply with Section 22 of the Peace Corps Act. However, there are now other commercial, non-governmental investigative entities approved by the General Services Administration that can provide equivalent clearance services for Volunteer applicants.

The revision of part 305 includes a new § 305.8, replacing the former § 305.3. It retains the requirement that all an appropriate background investigation be completed for all Applicants who are invited to serve in the Peace Corps. However, it does not specify that the background investigation be OPM's Federal Investigations Services background investigation for Federal employment positions. This change gives Peace Corps flexibility to use other contractors to conduct background investigations,

as well OPM's Federal Investigative Services.

### III. Changes From Proposed to Final Rule

The Peace Corps has made the following non-substantive changes to the final rule.

(1) It has eliminated the provision for the enrollment of persons who are non-citizens but who have made satisfactory arrangements to be naturalized. This provision of the proposed rule aligns with the Peace Corps Act, which stipulates that enrollment as a Volunteer is limited to U.S. citizens and nationals. Furthermore, this provision has not in practice been necessary or appropriate, as all applicants are required to have U.S. passports prior to travel overseas for pre-service training.

(2) It has amended the age requirement to make clear that Applicants must reach the age of 18 prior to becoming a Trainee (as opposed to at the time of enrollment). This correction is needed for the eligibility requirement so that only adults can become Trainees. The age of 18 is the standard for adulthood under the laws of most states.

(3) The specific number of medical personnel required to staff the Pre-Service Review Board has been deleted as unnecessarily detailed and overly constraining on the Peace Corps' decisions on how to staff the Board.

(4) The requirement for an affidavit in connection with applying for service as a member of an unmarried couple has been replaced with a requirement for a sworn statement, to allow for greater ease in electronic submission of this information.

### IV. Responses to Comments

The Peace Corps received three comments on the proposed rule.

*Comment 1:* One commenter had a number of thoughtful suggestions about the order of the presentation of various topics in the Peace Corps application for Volunteer service, presumably on the assumption that the order of the topics in the proposed rule would be the same order in the application.

*Response:* The application is a separate document and is periodically revised and does not necessarily follow the order of presentation of topics in the proposed rule. The commenter's suggestions will be useful for a future revision of the application.

*Comment 2:* Another commenter objected to the provision in the proposed rule that would give the Peace Corps the flexibility to have the statutorily required background investigation performed by outside

contractors, rather than the Federal Investigations Services of the U.S. Office of Personnel Management. The commenter cited concerns about the reliability of investigations performed by outside contractors.

*Response:* The Peace Corps recognizes the commenter's concerns and will address them by limiting the use of outside contractors to those approved to conduct background investigations by the General Services Administration.

*Comment 3:* A third commenter recommended that any Volunteer who ends service, before completion of the full 27 months of service, except for medical reasons, should have to pay back to the Peace Corps some proportionate amount related to the actual amount spent by the Peace Corps to train and transport the Volunteer to the country of service.

*Response:* The Peace Corps appreciates the commenter's position, but does not view the proposal as workable. Peace Corps service is entirely voluntary and there are many valid reasons, in addition to medical, for a Volunteer to terminate his or her service before the normal 27 month service period. Furthermore, the threat of the imposition of an exit fee would likely reduce interest in Peace Corps service.

### Statement of Effects

#### Executive Order 12866

The Office of Management and Budget (OMB) has reviewed the proposed regulatory action under Executive Order 12866 and has determined that it is not a significant regulatory action within the meaning of the Executive Order. Consistent with the Executive Order, the Peace Corps is providing an explanation of the need for the regulatory action and an assessment of the potential costs and benefits of the regulatory action.

(1) *Need for Regulatory Action.* Under Section 5(a) of the Peace Corps Act (22 U.S.C. 2504(a)), the Peace Corps is entitled to enroll qualified citizens and nationals into Peace Corps service and is delegated authority to establish the terms and conditions of enrollment. The Peace Corps last published its terms and conditions of enrollment in 1984 and those rules are outdated and need to reflect current laws and policies that have been implemented over the past 30 years. In addition, the structure of the current regulation needs to be revised to simplify the description of the information required in order to apply to the Peace Corps, as well as the explanation of the Peace Corps selection process as described in the Supplementary Information section.

(2) *Potential Costs and Benefits.* It is difficult to precisely quantify the costs and benefits of the new regulation that is designed to reflect current law and regulations and to make it easier for American citizens to apply for service as a Peace Corps Volunteer. However, the Peace Corps has concluded that the current regulatory structure, and the accompanying application form, is seen as a daunting, confusing and time-consuming process, which has discouraged many Americans who might otherwise be interested in and well-qualified for Volunteer service. The new regulation will improve the possibility of the most suitable candidates being selected as a Volunteer, decrease the barriers to service and broaden the rights of applicants. This will be a substantial benefit to all Americans who want to serve as Volunteers, as well as being a benefit to the Peace Corps which is interested in creating a large, diverse pool of qualified, suitable candidates to serve abroad as Volunteers. The Peace Corps estimates that agency staff will spend less time reviewing each individual application, because the application itself will be shorter. For 2016, the Peace Corps anticipates that use of the new application will result in a savings of \$95.00 per application, compared to the former application. With 22,000 expected applications for the year, the new application is expected to provide a savings of \$1,384,000 resulting from the reduction in staff time spent reviewing applications. However, the agency expects that the total number of completed applications will increase, and that the agency will not realize immediate cost savings from these changes.

The former regulation listed nine factors as relevant to the determination of eligibility. These factors include citizenship, age, medical status, legal status, intelligence background, marital status, dependents, military service, and failure to disclose requested information. This listing combined factors that are basic, clear-cut requirements for Peace Corps service, such as the citizenship requirement (under the Peace Corps Act only citizens and nationals can be Volunteers), with factors that are more relevant to whether an applicant is suitable for Volunteer service, where an applicant could effectively serve, or whether the applicant has the requisite qualifications to serve as a Volunteer, which involve more judgmental and situational issues. As a result, the Peace Corps has found that many potential

applicants, after reviewing the nine requirements, make self-judgments that they are not eligible to apply for Volunteer service. In addition, the application form that had been in use until June 30, 2014 was over 61 Web pages long and took approximately eight hours to complete. This was an added deterrence to many potential applicants. Approximately 75 percent of the annual 40,000 individuals who started the application never finished it due to its length and density. The Peace Corps has recently introduced a new application, which is 9 Web pages rather than the former 61 pages. It is estimated that each applicant will save approximately 7 hours with the shorter application form. The shorter application will clearly benefit applicants, because it will result in a reduced paperwork burden on applicants. The Peace Corps estimates that the shorter application form will result in a savings to the public of approximately \$5,840,000. This is based on (i) an assumed hourly wage equivalent of \$37.94 derived from the median wage earnings, including overhead and benefits, for persons age 25 or over who have attained a bachelor's degree, (ii) the reduction of 7 hours spent on the application, and (iii) 22,000 applications in 2015.

The shorter application should also increase the pool of individuals who complete an application from the current 10,000 per year to over 20,000 per year. Although the Peace Corps is able to simplify the application form without regard to a regulatory change, the new regulation is needed to accurately reflect the current laws and policies that relate to the Volunteer selection process.

The new regulatory action addresses deficiencies in the current regulation that have deterred potential applicants and reduced the applicant pool. The new regulation specifies only two baseline eligibility requirements for applying to the Peace Corps. An applicant must be a citizen or national of the United States and at least 18 years of age. The regulation clearly enumerates the suitability and qualification standards that are used by the Peace Corps in determining who should be invited to enroll as a Volunteer. It explains that an applicant must demonstrate suitability for Peace Corps service generally and for the particular assignment for which the applicant is being considered. It describes the medical qualifications that are applied, taking into account Section 504 of the Rehabilitation Act of 1973.

The new regulation gives the Peace Corps greater flexibility in accepting applicants with arrest or conviction

records. It provides a more complete description of how the Peace Corps considers applicants who have worked for intelligence agencies or engaged in intelligence activities. The former regulation merely stated that an applicant with an intelligence background may be disqualified, without an explanation of the criteria for disqualification in the regulation. As a result, applicants could have initiated and completed the lengthy application process only to be informed that they are not eligible for Volunteer service because of having worked for intelligence agencies or having engaged in intelligence activities. Other applicants may have been deterred from applying because they concluded that any connection to an intelligence background disqualifies an applicant. By explaining the intelligence background criteria front-end, applicants will be more informed about whether they meet Peace Corps selection standards and whether it is worth their time to initiate the application process.

The new regulation also reflects the new policy of the Peace Corps to accept same sex and opposite sex couple applicants on an equal basis whether married or unmarried in a committed relationship. It removes some of the restrictions on applicants who have dependent children under the age of 18. Finally, the new regulation incorporates appeal rights when an applicant has been rejected on grounds relating to medical status, an arrest or conviction record, or for having a background in intelligence activities. Any applicant in an expanded list of protected categories who thinks that he or she had been discriminated against is given the option for review and consideration by the Office of Civil Rights and Diversity at the Peace Corps. These changes to the Volunteer application process will provide an easier, clearer, faster and more equitable and consistent process for potential applicants, and result in a greater number of well-qualified applicants available for Peace Corps Volunteer service.

#### **Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))**

The Director of the Peace Corps certifies that this regulatory action will not have a significant adverse impact on a substantial number of small entities. The regulation only applies to individuals who are interested in service as a Volunteer and has no application to small entities.

#### **Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104-4)**

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of \$100 or more in any one year.

#### **Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)**

This regulatory action does not contain any paperwork or recordkeeping requirements and does not require clearance under the Paperwork Reduction Act. The Peace Corps Volunteer application form for Volunteer service referenced in the regulation has been approved by the Office of Management and Budget (Control Number 0420-0005).

#### **Federalism (Executive Order 13132)**

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### **Executive Order 12291**

This document is not a major rule as described in Executive Order 12291.

#### **Lists of Subjects in 22 CFR Part 305**

Aged, Citizenship and naturalization, Civil rights, Discrimination, Equal employment opportunity, Foreign aid, Health, Individuals with disabilities, Intelligence, Nondiscrimination, Political affiliation, Volunteers.

■ For the reasons set out in the preamble, the Peace Corps revises 22 CFR Part 305 to read as follows:

#### **PART 305—ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE**

Sec.

- 305.1 Purpose and general guidelines.
- 305.2 Eligibility.
- 305.3 Selection standards.
- 305.4 Medical status eligibility standards.
- 305.5 Legal status eligibility standards.
- 305.6 Applicants with an intelligence background.
- 305.7 Special circumstances.
- 305.8 Background investigation.

**Authority:** 22 U.S.C. 2503, 2504 2521; 29 U.S.C. 794; E.O. 12137, 44 FR 29023, 3 CFR, 1979 Comp., p. 389; E.O. 13160, 65 FR 39775, 3 CFR, 2000 Comp., p. 1461.

##### **§ 305.1 Purpose and general guidelines.**

This part states the requirements for eligibility for Peace Corps Volunteer

service and the factors considered in the assessment and selection of eligible applicants for Peace Corps Volunteer service.

(a) *Definitions.* For purposes of this part:

(1) *Applicant* means an individual for enrollment as a Volunteer, who has completed and submitted the Peace Corps Volunteer application form.

(2) *Trainee* means an individual for enrollment as a Volunteer during any period of training occurring prior to such enrollment.

(3) *Volunteer* means an individual who has taken the prescribed oath and enrolled for service in the Peace Corps.

(4) *Enrollment* means the act by which an individual becomes a Volunteer upon successful completion of training and taking the prescribed oath of office pursuant to Section 5 of the Peace Corps Act, 22 U.S.C. 2504.

(5) *Dependent* means an individual for whom an applicant or Volunteer has a legal or familial obligation to provide financial support.

(6) *Family member* means any individual related by blood or affinity whose close association with the applicant or Volunteer is the equivalent of a family relationship.

(b) *Selection.* Invitations to serve in the Peace Corps are the result of a highly competitive application process. Many more individuals apply for Peace Corps Volunteer service than can be accepted. Because the Peace Corps cannot accept all eligible and qualified applicants who wish to serve, it evaluates applicants to select the best qualified among eligible applicants. The Peace Corps determines Applicants' eligibility, and assesses their relative skills, qualifications, and personal attributes, such as motivation, aptitude, fitness for service, emotional maturity, adaptability, productive competence, and ability to serve effectively as a Volunteer in a foreign country and culture.

(c) *Authority.* Under section 5(a) of the Peace Corps Act, 22 U.S.C. 2504(a), the President may enroll in the Peace Corps for service abroad qualified citizens and nationals of the United States. The terms and conditions of the enrollment of Volunteers are exclusively those set forth in the Peace Corps Act and those consistent therewith which the President may prescribe. The President has delegated his authority under section 5(a) of the Peace Corps Act to the Director of the Peace Corps pursuant to Executive Order 12137 (May 16, 1979), as amended.

(d) *Non-discrimination.* The Peace Corps does not discriminate against any person on account of race, color,

religion, sex (including but not limited to gender identity and gender expression), national origin, age (40 and over), disability, sexual orientation, gender identity, gender expression, pregnancy, marital status, parental status, political affiliation, union membership, genetic information, or history of participation in the EEO process, any grievance procedure or any authorized complaint procedure.

Anyone who feels he or she has been discriminated against should contact the Office of Civil Rights and Diversity, 202.692.2139, [ocrd@peacecorps.gov](mailto:ocrd@peacecorps.gov), Peace Corps, 1111 20th Street NW., Washington, DC 20526.

(e) *Failure to disclose requested information.* In order for the Peace Corps to be able to make appropriate selection and placement decisions, it is critical that Applicants provide complete and accurate information throughout the application process, including information provided for a mandatory background investigation. The Peace Corps may disqualify an Applicant or separate a Volunteer or Trainee from Peace Corps service at any time if the Peace Corps determines that the Applicant, Volunteer, or Trainee provided materially false, misleading, inaccurate or incomplete information during the Peace Corps application process.

#### **§ 305.2 Eligibility.**

In order to be eligible for enrollment as a Volunteer, Applicants must meet mandatory citizenship and age requirements.

(a) *Citizenship.* The Applicant must be a citizen or national of the United States prior to entering on duty as a Trainee.

(b) *Age.* The Applicant must be at least 18 years old at the time of entry on duty as a Trainee.

#### **§ 305.3 Selection standards.**

(a) *General.* To qualify for selection for overseas service as a Volunteer, an Applicant must demonstrate that he or she is suitable, possessing the requisite personal and professional attributes required for Peace Corps service generally, and for the particular Volunteer assignment for which he or she is considered. The Peace Corps assesses each Applicant's personal, professional, educational, and legal qualifications in order to select those Applicants most likely to be successful in a Peace Corps assignment, serving under conditions of hardship if necessary to achieve the goals of the Peace Corps. Meeting these qualifications does not in and of itself entitle any individual to serve in the

Peace Corps. The Peace Corps endeavors to select the best qualified individuals from among all eligible Applicants.

(b) *Personal attributes.* Applicants must adequately demonstrate the following personal attributes to Peace Corps:

(1) *Motivation.* A sincere desire to carry out the goals of Peace Corps service, and a commitment to serve a full term as a Volunteer.

(2) *Productive competence.* The intelligence and professional experience or educational background to meet the needs of the individual's assignment.

(3) *Emotional maturity and adaptability.* The maturity, flexibility, cultural sensitivity, and self-sufficiency to adapt successfully to life in another culture, and to interact and communicate with other people regardless of cultural, social, and economic differences.

(4) *Skills.* In addition to any educational, professional or other qualifications and prerequisites that an individual must possess in order to be selected for a given assignment, a Trainee must demonstrate competence in the following areas by the end of pre-service training:

(i) *Language.* The ability to communicate effectively in the appropriate language or languages of the country of service with the fluency required to meet the needs of the overseas assignment.

(ii) *Technical competence.* Proficiency in the technical skills needed to carry out the Trainee's assignment as a Volunteer.

(iii) *Knowledge.* Adequate knowledge of the culture and history of the country of assignment to ensure a successful adjustment to, and acceptance by, the host country society, as well as an appropriate understanding of the history and government of the United States which qualifies the individual to represent the United States abroad.

(c) *Failure to meet standards.* Failure to meet initial selection standards, failure to attain any of the selection standards by the completion of training, or failure to maintain these standards during service, may be grounds for de-selection and disqualification from Peace Corps service.

#### **§ 305.4 Medical status eligibility standard.**

(a) *Requirements.* Under the Peace Corps Act (22 U.S.C. 2504(e)), the Peace Corps is responsible for ensuring that Peace Corps Volunteers receive all necessary or appropriate health care during their service. To ensure that the Peace Corps will be capable of doing so, Applicants must be medically qualified for Peace Corps Volunteer service. An

Applicant who is otherwise qualified must meet the following requirements:

(1) The Applicant, with or without reasonable accommodation, removal of architectural, communication or transportation barriers, or the provision of auxiliary aids or services, must have the physical and mental capacity required to meet the essential eligibility requirements for a Volunteer. In this context, the essential eligibility requirements for a Volunteer include, without limitation, the capability to:

(i) Live and work independently in an isolated location overseas at the same socio-economic level and in similar conditions as members of the community to which the Applicant is assigned;

(ii) Perform the job to which the Applicant is assigned; and

(iii) Complete a specified tour of service without undue disruption.

(2) The Peace Corps must be capable of providing the Applicant with such health care as the Peace Corps deems to be necessary or appropriate.

(3) The Applicant must not pose a direct threat (as defined in paragraph (c) of this section).

(b) *Individualized assessment.* In determining whether an Applicant is medically qualified, an individualized assessment is required regarding each of the requirements set forth in paragraph (a) of this section.

(c) *Direct threat.* (1) A “direct threat” is a significant risk to the health or safety of others that cannot be eliminated by a reasonable accommodation to policies, practices or procedures, removal of architectural, communication or transportation barriers, or the provision of auxiliary aids or services.

(2) In determining whether an applicant poses a direct threat, the Peace Corps will make an individualized assessment based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain:

(i) The nature, duration and severity of the risk;

(ii) The probability that the potential injury will actually occur; and

(iii) Whether reasonable accommodations, removal of architectural, communication or transportation barriers, or the provision of auxiliary aids or services will mitigate the risk.

(d) *Reasonable accommodation.* (1) The term “accommodation” means modifications to the Peace Corps’ policies, practices or procedures.

(2) An accommodation is not reasonable if:

(i) It would modify the essential eligibility requirements for a Volunteer;

(ii) It would modify, among other things, the Applicant’s Volunteer assignment or the Peace Corps’ medical program in a way that would result in a fundamental alteration in the nature of the service, program, or activity; or

(iii) It would impose an undue financial and administrative burden on the operations of the Peace Corps, including its medical program.

(3) In determining whether an accommodation would impose an undue financial and administrative burden on the operations of the Peace Corps, the Peace Corps may take into account, among other things:

(i) The size and composition of the Peace Corps staff at the post of assignment;

(ii) The adequacy of local medical facilities and the availability of other medical facilities;

(iii) The nature and cost of the accommodation compared to the overall number of Volunteers and the overall size of the Peace Corps budget; and

(iv) The capacities of the host country agency and of the host community to which the Applicant would be assigned.

(e) *Medical status eligibility review.*

(1) An Applicant who is determined by medical screening staff not to be medically qualified for Peace Corps Volunteer service may request review of that decision by submitting any relevant information to the Office of Medical Services (OMS). The information submitted by the Applicant will be reviewed by a physician, and, unless the physician determines that the Applicant is medically qualified, by a Pre-Service Review Board (PSRB) composed of medical personnel in OMS and advised by the General Counsel. Procedures for such review are subject to approval by the General Counsel.

(2) The PSRB will include as voting members at least one physician as well as other medical professionals in OMS. In any case involving review of issues involving mental health, at least one mental health professional from the Counseling and Outreach Unit will also participate as a voting member.

(3) The decision of the PSRB will be reviewed by the General Counsel for legal sufficiency. Subject to that review, it will constitute the final agency action.

#### **§ 305.5 Legal status eligibility standard.**

(a) *General requirements.* The existence of an arrest or conviction record may, but will not automatically, exclude an Applicant from consideration for Peace Corps service. The Peace Corps will consider the nature of the offense, how long ago the

offense occurred, whether the Applicant was acquitted of the offense, the terms of any applicable parole or probation, and other relevant facts or indications of rehabilitation.

(b) *Drug and alcohol related offenses.*

(1) An Applicant with any drug-related conviction, with a conviction for public intoxication, driving under the influence (DUI), or driving while intoxicated (DWI), with a conviction for reckless driving after having been initially charged with DUI or DWI, or with a similar alcohol-related conviction, is not eligible to have his or her application for Peace Corps service considered until 12 months has passed from the date of the incident.

(2) An Applicant who, at any time on or prior to the day of departure for Peace Corps service, is arrested for any drug offense or for public intoxication, DUI, DWI or any similar alcohol-related offense will have any pending application or invitation for Peace Corps service withdrawn. If the charges are dismissed, an Applicant whose application or invitation for Peace Corps service was terminated may immediately reapply. If the applicant is convicted of the offense, he or she may reapply after 12 months from the date of the incident.

(c) *Review process.* An Applicant who is rejected for a Volunteer position because of an arrest or conviction may request a review of that decision by submitting any relevant information to the Associate Director of the Office of Volunteer Recruitment and Selection (VRS). The Associate Director will review the information submitted and consult with the General Counsel. The decision of the Associate Director will be the final agency decision. The Associate Director may delegate authority to conduct such a review to another senior member of VRS, but not to the supervisor of the office making the original eligibility determination.

(d) *Subsequent application.* An Applicant rejected for service due to failure to meet the legal status eligibility standard may reapply at a later date, but not sooner than 12 months after the final agency decision.

#### **§ 305.6 Applicants with an intelligence background.**

(a) *General.* It has been the longstanding policy of the Peace Corps to exclude from Volunteer service any individuals who have engaged in intelligence activity or related work or who have been employed by or connected with an intelligence agency, either for a specific period of time or permanently (depending on the agency). This policy is founded on the premise

that it is crucial to the Peace Corps in carrying out its mission that there be a complete and total separation of Peace Corps from the intelligence activities of the United States Government or any foreign government, both in reality and appearance. Any semblance of a connection between the Peace Corps and the intelligence community would seriously compromise the ability of the Peace Corps to develop and maintain the trust and confidence of the people of the host countries. To ensure that there is not the slightest basis for the appearance of any connection between the Peace Corps and the intelligence community, this policy contains certain temporary and permanent bars to Peace Corps service. Serious doubts about an Applicant's connection with intelligence activities are to be resolved in favor of exclusion.

(b) *Definitions.* For purposes of this section:

(1) *Intelligence activity* includes any activities or specialized training involving or related to the clandestine collection of information, or the analysis or dissemination of such information, intended for use by the United States Government or any foreign government in formulating or implementing political or military policy in regard to other countries. The term "intelligence activity" includes any involvement in covert actions designed to influence events in foreign countries. The fact that the name of an employer or the description of a person's work uses or does not use the term "intelligence" does not, in and of itself, mean that the person has or has not engaged in intelligence activity or related work.

(2) *Intelligence agency* includes:

(i) Any agency, division of an agency, or instrumentality of the United States Government that is a member of the United States Intelligence Community; and

(ii) Any other agency, division of an agency, or instrumentality of the United States Government or any foreign government, a substantial part of whose mission has been determined by the General Counsel to include intelligence activities.

(3) *Employment, employee or employed* refer to the existence of a relationship of employer and employee, whether full-time or part-time, permanent or temporary, whether or not the individual is engaged in intelligence activity for an employer, without regard to the length of time the relationship existed or is proposed to exist, and includes individuals performing duties as volunteers, fellows, interns, consultants, personal services contractors, contractors (non-personal

services contractors), and employees of contractors who were assigned to work for an intelligence agency or to engage in intelligence activities. Employees of contractors who were or are not themselves assigned to work for an Intelligence Agency or to engage in intelligence activities are not considered to have been or to be employed by an intelligence agency.

(c) *Employment by an intelligence agency or engagement in intelligence activities.* (1) An Applicant currently or formerly employed by the Central Intelligence Agency (CIA) is permanently ineligible for Peace Corps Volunteer service.

(2) An Applicant who has been employed by an intelligence agency other than the CIA is ineligible for a minimum of 10 years from the last day of employment by such intelligence agency. This bar on an Applicant who is or was employed by an intelligence agency applies whether or not the Applicant was engaged in intelligence activity for the intelligence agency.

(3) An Applicant who has been engaged in intelligence activities is ineligible for service as a Volunteer for a period of 10 years from the last date on which the Applicant engaged in intelligence activities.

(4) An Applicant may be ineligible for service for a period in excess of 10 years if the General Counsel determines that the Applicant's background or work history with regard to intelligence activities warrants such action.

(d) *Relationship to intelligence agency or activity.* (1) An Applicant whose background discloses a relationship to an intelligence agency or intelligence activity may be ineligible to serve as a Peace Corps Volunteer. The term "relationship" means any association with an intelligence agency or with an intelligence activity, if such association could be the basis for an inference or the appearance that an Applicant was engaged in an intelligence activity. The association could include, but not be limited to, one based upon a familial, personal or financial connection to an intelligence agency or with an intelligence activity.

(2) Determinations of the eligibility or periods of ineligibility of such Applicants will be made by the General Counsel on a case by case basis using the criteria set forth below. Examples of the type of relationships among others that could lead to ineligibility are Applicants whose spouses, domestic partners, or parents are or were involved in actual intelligence activities, or members of the immediate family of prominent highly placed officials in an intelligence agency who might be the

target of harassment or violence overseas as the result of family connections. Employment by an organization that has been funded by an intelligence agency may also lead to ineligibility.

(3) In determining whether an Applicant's relationship to an intelligence agency or intelligence activity makes the Applicant ineligible for service, or in determining the duration of any ineligibility, the General Counsel will consider the following factors as appropriate:

(i) Nature of the relationship.

(ii) The intelligence agency with which the Applicant has the relationship.

(iii) Duration of the relationship.

(iv) Length of time that has elapsed since the last connection to the intelligence agency.

(v) Where the intelligence activity or work was performed.

(vi) Nature of the connection with intelligence activity or work.

(vii) Whether or not the intelligence activity or work involved contact with foreign nationals.

(viii) Whether the connection was known or unknown to the Applicant at the time it occurred.

(ix) Training received, if any.

(x) Regularity of the contact with foreign nationals, and nature of duties, if any.

(xi) Public knowledge of the activity or connection.

(xii) Any other information which bears on the relationship of the Applicant to an intelligence agency or intelligence activity.

(e) *Determination.* VRS is responsible for the initial screening of Peace Corps Volunteer applications for compliance with the provisions of this policy. In cases where that office is unable to make a decision regarding the eligibility of an Applicant under this policy, the individual's application will be referred to the General Counsel, who will make the determination on eligibility.

(f) *Appeal.* VRS will inform all Applicants promptly and in writing of any decision to disqualify them based on an intelligence background and the reasons for that decision. Applicants have 15 days from the date of receipt of the letter from VRS to appeal the decision to the Director of the Peace Corps. The decision of the Director of the Peace Corps will be the final agency decision.

(g) *Post Peace Corps employment by United States intelligence agencies.* Pursuant to agreements between the Peace Corps and certain intelligence agencies, those intelligence agencies will not employ former Volunteers for a



specified period after the end of their Peace Corps service and will not use former Volunteers for certain purposes or in certain positions. Information regarding such agreements may be obtained from the Office of the General Counsel.

#### § 305.7 Special circumstances.

(a) *Couples*. Two Applicants who are married to one another or two unmarried Applicants who are in a same-sex or opposite-sex domestic partnership or other committed relationship are eligible to apply for service as a couple. In the case of an unmarried couple, each member of the couple must provide a sworn statement, in a form acceptable to the Peace Corps, attesting to their domestic partnership status or committed relationship (as the case may be) and their request to be considered for assignment as a couple. In all cases, both members of the couple must apply and qualify for assignment at the same location.

(b) *Serving with dependents and other family members*. In general, dependents and other family members may not accompany a Volunteer during service. However, the Peace Corps may from time to time make exceptions either on a case-by-case basis or for particular categories of Volunteers to the extent permitted by Federal law.

(c) *Military service*. The Peace Corps welcomes applications from veterans, reservists, and active duty military personnel who are interested in Peace Corps service after completion of their military service. After receiving an invitation for Peace Corps service, applicants with reserve obligations are reminded to comply with all requirements to notify their reserve component that they will be unavailable for drills and annual training because of their Peace Corps service. Such applicants are urged to obtain written confirmation from their reserve component that they have complied with these requirements.

#### § 305.8 Background investigation.

Section 22 of the Peace Corps Act requires that each Applicant be investigated to ensure that enrollment of the Applicant as a Volunteer is consistent with the national interest. The Peace Corps therefore obtains an appropriate background investigation for all Applicants who are invited to serve in the Peace Corps. Information revealed by the background investigation may be grounds for disqualification from Peace Corps service. Under the Peace Corps Act, if a background investigation regarding an Applicant develops any data reflecting

that the Applicant is of questionable loyalty or is a questionable security risk, the Peace Corps must refer the matter to the Federal Bureau of Investigation for a full field investigation. The results of that full field investigation will be furnished to the Peace Corps for information and appropriate action.

Dated: December 13, 2016.

**William Stoppel,**

*Acting Associate Director, Management.*

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**BILLING CODE 6051-01-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 154

[Docket ID: DOD-2016-OS-0121]

RIN 0790-AJ55

#### Department of Defense Personnel Security Program Regulation

**AGENCY:** Office of the Under Secretary for Intelligence, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes DoD's regulation concerning personnel security. The codified rule is outdated and no longer accurate or applicable as written. The rule does not impose obligations on members of the public that are not already imposed by statute. It paraphrases and summarizes relevant sources of law and does not substantively deviate from them.

**DATES:** This rule is effective on January 5, 2017.

**FOR FURTHER INFORMATION CONTACT:** Patricia Toppings at 571-372-0485.

**SUPPLEMENTARY INFORMATION:** DoD internal guidance concerning personnel security will continue to be published in DoD Manual 5200.02. Once the revision of DoD Manual 5200.02 is signed, a copy will be made available at <http://www.dtic.mil/whs/directives/corres/pub1.html>.

It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publically available on the Department's issuance Web site.

The removal of this rule will be reported in future status updates of DoD's retrospective review plan in accordance with the requirements in Executive Order 13563. DoD's full plan can be accessed at: <http://www.regulations.gov/#/docketDetail;D=DOD-2011-OS-0036>.

## List of Subjects in 32 CFR Part 154

Classified information, Government employees, Investigations, Security measures.

## PART 154—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 154 is removed.

Dated: December 27, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 286

[DOD-2007-OS-0086; 0790-AI24]

#### DoD Freedom of Information Act (FOIA) Program

**AGENCY:** Department of Defense.

**ACTION:** Interim final rule.

**SUMMARY:** This part revises the Department of Defense (DoD) Freedom of Information Act (FOIA) regulation to implement the FOIA and incorporate the provisions of the OPEN Government Act of 2007 and the FOIA Improvement Act of 2016. This part promotes uniformity in the Department of Defense (DoD) FOIA Program. It takes precedence over all DoD Component issuances that supplement and implement the DoD FOIA Program.

**DATES:** *Effective date:* This rule is effective January 5, 2017. *Comment date:* Comments must be received by March 6, 2017.

**FOR FURTHER INFORMATION CONTACT:** James Hogan, 571-372-0462.

**SUPPLEMENTARY INFORMATION:**

#### Executive Summary

This rule revises 32 CFR part 286 to implement section 552 of title 5, United States Code (U.S.C.) and incorporate the provisions of the OPEN Government Act of 2007 and the FOIA Improvement Act of 2016. This part promotes uniformity in the DoD FOIA Program across the entire Department.

The FOIA, 5 U.S.C. 552, requires agencies to “promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests [the FOIA] and establishing procedures and guidelines for determining when such fees should be waived or reduced.” Additionally,