

DEPARTMENTAL REGULATION		Number: DR 4230-1
SUBJECT: Volunteer Programs	DATE: June 5, 1997	
	OPI: Office of Human Resources Management	

1 PURPOSE

This regulation establishes guidelines for acceptance of volunteer services under these authorities and sets a requirement for agencies to publish their own guidelines before using this authority.

2 BACKGROUND

Section 1526 of the Food and Agricultural Act of 1981 [7 U.S.C. 2272] permits the Secretary of Agriculture to establish a program to use volunteers in carrying out programs of the Department. 5 U.S.C 3111 [as effected by Part 308 of Title 5, Code of Federal Regulations (referred to as 5 CFR)] grants agencies the authority to establish programs designed to provide educationally related work assignments for students in nonpay status.

3 CANCELLATION

Departmental Regulation No. 4230-1, dated July 15, 1983, is hereby superseded.

4 DEFINITIONS

Oppressive Child Labor: "...[E]mployment of a minor in an occupation for which he does not meet the minimum age standards of the [Fair Labor Standards Act]..." [29 CFR 570.1(b)].

Student Volunteer: An individual who is enrolled not less than half-time in a high school, trade school, technical or vocational institute, junior college, college, university or other accredited educational institution who, with the permission of the institution at which enrolled, voluntarily performs services as part of an agency program established for the purpose of providing educational experience. [Paraphrased from 5 CFR 308.101].

Volunteer under 7 U.S.C. 2272: An individual who offers his or her services without compensation, and who performs those services in furtherance of the programs of USDA agencies. [7 U.S.C. 2272].

5 POLICY

Agencies are authorized to advertise volunteer opportunities to the general public, and to train and accept without regard to Civil Service classification laws, rules or regulations the services of individuals to serve without compensation.

6 PROGRAM RESPONSIBILITY

Before using a volunteer, agencies or Mission Areas will establish guidelines for their use. Agencies should designate a coordinator who will be responsible for issuing agency guidelines, monitoring the volunteer program, and serving as the agency contact. At the Headquarters level, the personnel office will have final authority over matters relating to the appropriateness of assignments and who may serve as a volunteer (including the conditions under which they may perform work).

7 PROVISIONS

a Volunteers are not federal employees for any purpose except for the purposes of Chapter 81 of 5 U.S.C. (relating to compensation and injury), and Sections 2672 through 2680 of 28 U.S.C. (relating to tort claims).

b Volunteer service, in general, may not displace any USDA employee nor may it be used to perform any work which is inherently a government function as defined by OMB Circular A-76. Student volunteer service, in particular, may not be used to staff a position which is a normal part of the work force.

c Volunteers must be at least 14 years of age. Supervisors must adhere to appropriate Federal, State or local laws and standards regarding employment of minors. Where there is conflict, the most stringent of these is for application. This includes abiding by Office of Personnel Management regulations at 5 CFR, Part 308 and Department of Labor (DOL) regulations at 29 CFR, Part 570 which place restrictions on the employment of those under 18 years of age. The concept of employment in the DOL regulations extends to suffering or permitting minors to work. The DOL regulations also set a general age limit of 16 for the employment of minors with exceptions listed therein. To not be in compliance with the DOL regulations may lead to a finding that an employer is indulging in oppressive child labor. Some pertinent parts of these regulations found at Part 570 are:

- (1) 570.1 contains definitions.
- (2) 570.2 discusses the minimum age standards
- (3) Subpart C (which starts at 570.31) covers the employment of minors between 14 and 16 years of age.
- (4) 570.33 sets forth those occupations not covered by Subpart C.
- (5) 570.35 discusses the periods and conditions under which 14-16 year olds may work.
- (6) 570.35a provides some exemptions for work covered by work-experience and career exploration programs.
- (7) Subpart E provides special conditions for apprentices plus other exceptions along with a detailed explanation of prohibitions relating to occupations and situations that are particularly hazardous for 16-18 year olds, such as the operation of motor vehicles, being an outside helper, logging and mill operations, the operation of power-driven woodworking machines, exposure to radiation or radioactive substances, other power-driven machinery, excavation and agriculture.

(8) 570.123 discusses the agricultural exception and it relates to the term "outside of school hours." It makes the application of this term dependent on the school's hours and not on a student's schedule.

Agencies are expected to maintain and become familiar with these regulations as they apply to workers who are under 18 years of age.

d They are subject to the requirements of Executive Order 10450, as amended, relating to security, and the ethical requirements of 5 CFR 735.203 and 5 CFR 2635.101(a) and (b).

e Voluntary service must be documented and retained as required by Office of Personnel Management letter dated April 18, 1996.

8 EQUAL OPPORTUNITY

Volunteer opportunities must be made available to all interested persons without regard to race, color, creed, age (except as provided by Paragraph 6c above), sex, disabling condition, or any nonmerit factor.