North Dakota State Commission

National and Community Service

AmeriCorps State Formula User Guide for Directors and Members

Revision Date December 17, 2014

North Dakota Department of Commerce
Workforce Development
Bismarck, North Dakota

Introduction and Disclaimer

The following AmeriCorps User Guide includes material from the Code of Federal Regulations (CFR), the AmeriCorps State and National Grant Provisions, the AmeriCorps State and National frequently asked questions document and the North Dakota State Commission Policies. This material does not supersede any of the requirements established by the Corporation for National and Community Service's regulations; the terms, conditions, and provisions of an AmeriCorps grant or cooperative agreement; or the standard federal requirements applicable to all federal grants that may not have been amended or presented in this user guide. The intent of this user guide is to provide a centralized resource for North Dakota State Commission formula grant programs, and is not intended to substitute for the official guidance provided by the Corporation. Don't assume that every AmeriCorps sub-grantee question, concern and/or issue can be answered in this user guide. This user guide will focus primarily on areas of fiscal and member management. The North Dakota State Commission representatives will continue to receive requests for additional guidance and if necessary, will forward these requests to our assigned Corporation Program and Grants Officer for assistance.

Order of Precedence

Any inconsistency in the Grant Award shall be resolved by giving precedence in the following order (a) applicable Federal statutes, (b) applicable Federal regulations, (c) CNCS Grant Special Provisions, (d) CNCS Grant General Provisions, (e) the Notice of Funding Opportunity, and (f) the approved Grant Application including all assurances, certifications, attachments, and pre-award negotiations, (f) the North Dakota State Commission policies.

Corporation for National and Community Service: AmeriCorps Related Resource Links:

Corporation for National and Community Service

State and National AmeriCorps

Program Startup Guide

Managing AmeriCorps Grants (Includes most recent FAQs 7/30/14 and Criminal History Assessment Period Guidance)

National Service Knowledge Network for AmeriCorps

National Service Knowledge Network (more topics)

Code of Federal Regulations (CFR) **Federal Register**

Government Wide Requirements for Drug Free Workplace (Replaces CFR 45 Part 2545)

AmeriCorps State and National Grant Provisions June 1, 2014, Revised October 1, 2014

Funding Opportunity Notices and Instructions for 2014-15

Office of Management and Budget (OMB Guidelines)

The North Dakota State Commission can be contacted at:

North Dakota Department of Commerce
1600 E. Century Avenue, Suite 2
Bismarck, ND 58202-2057

ND State Commission Resource Links: **North Dakota AmeriCorps**
North Dakota State Commission Policies

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History of the Corporation for National and Community Service CNCS History

In 1993, the Corporation for National and Community Service (CNCS) was established to connect Americans of all ages and backgrounds with opportunities to give back to their communities and their nation. It merged the work and staffs of two predecessor agencies, ACTION and the Commission on National and Community Service.

At its inception, CNCS was directed to manage three main programs:

- The newly created Senior Corps, which incorporated the longstanding Foster Grandparents, RSVP (Retired and Senior Volunteer Program), and Senior Companions programs;
- The newly created AmeriCorps, which incorporated the longstanding VISTA, the new National Civilian Community Corps programs, and the full-time demonstration program that had been established under the 1990 Act; and
- Learn and Serve America, formerly known as Serve America.

Today CNCS serves more than 5 million individuals of all ages and backgrounds help meet local needs through a wide array of service opportunities. These include projects in six priority areas: disaster services, economic opportunity, education, environmental stewardship, healthy futures, and veterans and military families through CNCS's core programs: AmeriCorps, Senior Corps, and the Social Innovation Fund.

CNCS is part of our nation's history of commitment to building a culture of citizenship, service, and responsibility.

History of National and Community Service in North Dakota

The North Dakota State Commission on National & Community Service provides opportunities for North Dakotans to engage in service that addresses the state's and nation's educational, public safety, environmental, and other human needs. The Commission seeks to foster civic responsibility, strengthen the ties that bind us together as a people, and provide educational opportunity for those who make a substantial commitment to service. North Dakota State Commission

The focus of the commission includes:

- Development of a three-year comprehensive national and community service plan.
- Preparation of service learning applications.
- Administration and monitoring of the AmeriCorps State formula grant program.
- Technical assistance to local nonprofit organizations and other entities in planning programs, applying for funds, and implementing and operating high-quality programs.
- Program development assistance and training.
- Recruitment and placement of AmeriCorps members.
- Assist in the provision of health and child care benefits to program participants.
- Coordinate activities with other State agencies and volunteer service programs.

Governor's Executive Order: Governor Jack Dalrymple's Executive Order

North Dakota AmeriCorps Formula Projects 2014-15 Event/Reporting Calendar

October FY14	**1**	New project year begins
	22	Final periodic expense report (September PER) due state commission from previous year projects
	31	Final Progress Report due to State Commission from previous year projects
November	**TBD**	Town hall presentations for the 2015-16 AmeriCorps competitive and formula competition
	17	October PER due from projects to the State Commission
	28	New Grant Performance Measures due to the State Commission
December	**10**	**Due date for submitting a Notice of Intent to Apply for Competitive AmeriCorps State and National FY 2015 Grant**
	15	November PER due from projects to the State Commission
	17	2015-16 AmeriCorps Formula Application Instructions available
January 2015	**14**	**FY 2015 AmeriCorps Competitive Grant Applications are due to the North Dakota State Commission for submission review and ranking**
	15	December PER due from projects to the State Commission
	16	**Due date for submitting a Notice of Intent to Apply for a Formula AmeriCorps State and National FY 2015 Grant**
	19	Martin Luther King Day of Service
	21	**Reviewed and ranked FY 2015 AmeriCorps Competitive Grant Applications are due to the Corporation for National and Community Service**
	30	First quarter Progress Reports due to the State Commission
February	**13**	**FY 2015 AmeriCorps Formula Grant Applications are due to the North Dakota State Commissions on National and Community Service**
	16	January PER due from projects to the State Commission
March	**16**	February PER due from projects to the State Commission
April	**15**	March PER due from projects to the State Commission
	30	Second quarter Progress Report due to the State Commission
May	**TBD**	Programmatic review of projects
	15	April PER due from projects to the State Commission
June	**15**	May PER due from projects to the State Commission
July	**15**	June PER due from projects to the State Commission
	TBD	Fiscal review of projects
	31	Third quarter Progress Report due to the State Commission
August	**TBD**	Grant administration and writing workshop in Bismarck, ND
	17	July PER due from projects to the State Commission
	TBD	Mandatory AmeriCorps training for Directors and Coordinators
September	**11**	9/11 Day of Service and Remembrance
	15	August PER due from projects to the State Commission
October FY15	**1**	New project year begins
	15	Final periodic expense report (September PER) due state commission from previous year projects
	30	Final Progress Report due to State Commission from previous year projects

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Section 1: North Dakota State Commission Policies and Procedures

This portion of the user guide has been developed to assist formula programs funded by the North Dakota State Commission on National and Community Service (State Commission) to operate a fiscally sound program and maintain compliance with federal and state statutes, regulations, policies and provisions. It is intended to be a reference guide of the ND State Commission's policies and procedures in the administration of awarded sub-grants. Programs are subject to the terms and conditions of the grant and any other State and Federal requirements. In addition to the North Dakota Department of Commerce policies and procedures that the ND State Commission complies with, the ND State Commission also maintains policies and procedures specifically approved and designed for the management of awarded AmeriCorps sub-grantees. Subsequently, each AmeriCorps sub-grantee is also responsible for ensuring that their program and sponsoring organization also maintains policies and procedures in agreement with the Code of Federal Regulations.

A. GRANT AWARD CONDITIONS

The AmeriCorps Provisions and Rules are binding on the Grantee. By accepting funds under this Grant, the Grantee agrees to comply with the AmeriCorps Provisions, Rules, and all applicable federal statutes, regulations and guidelines. The Grantee agrees to operate the funded Program in accordance with the approved Grant application and budget, supporting documents, and other representations made in support of the approved Grant application. The Grantee agrees to include in all sub grants the applicable terms and conditions contained in this award. All applicable Provisions of the Grant, including regulations and OMB circulars that are incorporated by reference shall apply to any Grantee, sub grantee, or other organization carrying out activities under this award. Sub-grantees are also required to adhere to all additional policies and procedures established by the North Dakota State Commission.

Supplanting Prohibited

State Commission funds must be used to add to existing funds for program activities and not replace those funds that have been appropriated for the same purpose. Supplanting is strictly prohibited for all State Commission funds.

Fund Availability

The Grant award entered into with the State Commission is subject to any applicable restrictions limitations, or conditions enacted by the North Dakota Legislature and/or the United States Government subsequent to execution of the grant award.

B. NORTH DAKOTA STATE COMMISSION POLICIES RELATED TO FORMULA FUNDED PROGRAMS

1-04-04 (5) Evaluation and Monitoring
1-06-04 (3) Budgeted Match Requirement
1-14-05 (3) Findings, Resolutions and Debt Management
1-23-06 (4) Submitting Formula Funded Expansion Applications
1-25-06 (4) Performance Measures and Plans
1-26-06 (3) Budget Adjustments
1-28-06 (3) Member File Checklist
1-29-06 (3) Performance Measures Passing Grades
1-32-06 (5) Monthly Reimbursement Process
1-33-08 (2) Cost Per Member Service Year (MSY) Application Requirement
1-37-09 (2) AmeriCorps Projects and Disaster Response
1-39-10 (3) AmeriCorps Members National Service Days Participation
1-41-12 (1) Criminal History Check Procedure Verification Form
1-44-13 (1) Sub-grantee Member Timesheet Signature Requirement

C. TEN RULES OF FUNDS MANAGEMENT FOR AMERICORPS PROGRAMS

A sound financial management system is essential to operating a successful AmeriCorps program. A weak system jeopardizes control over federal resources and places a program at risk of having material findings during an audit. The following are ten rules of funds management for AmeriCorps programs:

1. Know Your Regulatory Requirements
2. Document Your Policies and Procedures
3. Maintain Adequate Documentation to Support Expenditures
4. Manage Cash Effectively
5. Design an Efficient Accounting System
6. Maintain Effective Budgetary Controls
7. Document and Report Employee's and Member's Activities Accurately
8. Meet Matching Requirements and Document In-Kind Contributions Appropriately
9. Report Timely and Accurate Financial Information
10. Maintain Strong Internal Controls

Rule #1 - Know Your Regulatory Requirements

Regulatory requirements provide the guidance and foundation for your financial management system. For AmeriCorps programs, the following requirements apply:

- The National Community Service Act
- Code of Federal Regulations
- AmeriCorps Provisions
- State Requirements (terms of your Contract)
- OMB Circular Requirements (**Office of Management and Budget (OMB Guidelines**)

OMB (Office of Management and Budget) circulars describe a wide variety of financial management issues including administrative requirements, cost principles, and audits. A fiscally sound program should comply with the OMB circulars specifically applicable to the type of institution or organization through which the AmeriCorps program is housed (the legal applicant entity for the program). The full text of all OMB circulars can be found on the internet at the address provided above. Applicable OMB circulars are as follows:

For Educational Institutions

· A-110=Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
· A-21=Cost Principles for Educational Institutions
· A-133=Audits of States, Local Governments, and Nonprofit Organizations

For Non-Profit Organizations

· A-110=Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
· A-122=Cost Principles for Nonprofit Organizations
· A-133=Audits of States, Local Governments, and Nonprofit Organizations

For State and Local Government Entities

· A-87=Cost Principles for State, Local and Indian Tribal Governments
· A-102=Grants and Cooperative Agreements with State and Local Governments
· A-133=Audits of States, Local Governments, and Nonprofit Organizations

Rule #2 - Document Your Policies and Procedures

Documented policies and procedures are important because:

- They are the standards for the organization's operations
- They help in establishing a consistent method of processing and maintaining information that will subsequently be used to verify expenditures and performance
- They help in orienting new employees and substitutes if the appropriate personnel are absent

Sub-grantee organizations must ensure that policies and procedures are established and aligned with the signed grant award certifications and assurances. In addition to policies and procedures related to the grant award certifications and assurances, the following types of policies and procedures must also align with federal regulations and be established and applied when administering a Federal grant program:

- General financial and programmatic management policies, procedures, manual, or guidelines detailing fiscal processes and member application processes, eligibility documentation, criminal background history checks, accompaniment of members, and if applicable, compliance assessment of vendors providing criminal history check services
- Internal controls of grant funds, e.g. approval and documentation of expenses, separation of duties, delegation of authority, check issuance, cash receipts, cash management, bank reconciliation, travel, and payroll
- Procurement and purchasing procedures
- Property management for equipment purchased with Federal funds
- Time and effort distribution (timekeeping), including documentation of accompaniment
- Record retention and destruction
- Procedures to minimize the time elapsing between the transfer of Federal funds from the HHS Payment Management System to the Grantee
- Procedures for determining the reasonableness, allocability, and allowability of costs in accordance with the applicable cost principles and the terms and conditions of the award
- Codes of conduct for employees engaged in the award and administration of contracts including but not limited to vacation, sick leave, overtime, or holiday policies and performance evaluations
- Employee and program member grievance processes if non-existent at the sponsoring organization
- Cash receipts, disbursements, drawdowns and reimbursements
- Financial reporting and cost allocation plans
- Site management and monitoring
- Closeout of sub-grants

Additional Requirements for Non-Profit Organizations

- Conflict of interest policy
- Whistleblower policy
- Written process for determining compensation of the organization's CEO, Executive Director, or top management official; and other officers or key employees. The process must include: a review and approval by independent person, comparability data, and contemporaneous substantiation of the deliberation and decision
- Written policy or procedure for an organization that invests in, contributes assets to, or participates in a joint venture or similar arrangement with a taxable entity. It must ensure proper steps have been taken to safeguard the organization's exempt status with respect to such arrangements

Rule #3 - Maintain Adequate Documentation to Support Expenditures

All expenditures should trace back to source documentation and should include descriptions that support why the transaction is allowable for AmeriCorps purposes. Design a filing system that groups grant activities and documents such as the:
· grant contract, amendments, original application and changes
· documents from any sub-grantees if you sub-grant
· expenses/vendors, consultant agreements, etc.
· general correspondence
· lease agreements
· monthly financial reports (budget to actual)
· general liability insurance policy
· in-kind contributions documentation
· other relevant financial documents

Records must be maintained on all equipment in use by the program and should include at a minimum:
· description and funding source
· manufacturer serial number
· title holder's name and address (also affixed to the equipment item in plain sight)
· acquisition date and cost
· percentage of federal financial participation

Equipment and supplies must be handled in accordance with 45 C.F.R. 2541–Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government or with 45 C.F.R. 2543–Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit organizations.

Rule #4 - Manage Cash Effectively

The Commission for National and Community Service issues AmeriCorps grants on a reimbursement basis except for the first month advance in which case programs must minimize the time that elapses between the receipt of funds and the disbursement of these funds.

The AmeriCorps funds from the Commission are federal funds, and as such, should be deposited in an interest bearing account. Accounting systems should track interest earned on federal funds. Separate general ledger accounts for each grant you receive (federal, state, or private) should be maintained. Bank reconciliation and a schedule of bills to be paid should be prepared and maintained monthly.

Rule #5 - Design an Efficient Accounting System

An efficient accounting system separates accounts for each grant/award, maintains federal and non-federal matching funds separate from grant funds, and records in-kind contributions as both revenues and expenses. Accounting records should be complete with all AmeriCorps expenditures and local match entered into the general ledger system. Financial statements should reflect the receipt and use of cash and in-kind contributions. The general ledger should form the basis for the Electronic Periodic Expense Report (PER).

An effective accounting structure should facilitate easy transaction input and report generation. The structure should allow for the efficient transfer of information for reports from the accounting system into the Electronic Periodic Expense Report.

Rule #6 - Maintain Effective Budgetary Controls

The budget is a central part of fiscal control, which, when compared to actual spending can provide important information about variances from the original spending plan. In other words, effective budgetary controls should allow for easy comparison of expenditures against the budget and provide for revisions as appropriate.

To produce useful budgetary information, follow these steps:

Step One: Design an effective accounting system
Step Two: Set up the budget control process
Step Three: Accumulate monthly expenditures
Step Four: Compare actual expenditures to budget
Step Five: Make appropriate revisions.

Rule # 7 - Document and Report Employees and Members Activities Accurately

All stipends or salaries/wages charged against the AmeriCorps grant (either the grant funds or the match funds) must be supported by signed time and attendance records. This requirement is twofold:

For AmeriCorps Members:

- Programs must document everything for AmeriCorps members in terms of each member's eligibility, enrollment, time logs, activities (separating direct service from training), etc. All time logs should be signed by both the AmeriCorps member and his or her supervisor. The supervisor should be an individual who is able to account for the member's time and activities. Members cannot supervise other members. Members and Supervisors must sign each page of a timesheet report in accordance with OMB guidelines.
  Special Note: Authorized supervisors and/or professionals cleared to be in the physical presence of vulnerable populations and who are assigned to accompany AmeriCorps members during a pending criminal background history check, must also indicate on the timesheet by signature the periods in which the member was accompanied.

For Staff:

- In compliance with OMB A-133, any staff that is charged against the grant or the match for the grant, depending on your regulatory requirements, must keep monthly time and attendance records signed by a supervisor. Detailed job descriptions should be on file for AmeriCorps staff. Exceptions to this include:

  State, Local and Indian Tribal Government programs
  These programs must comply with OMB A-87, which states that
- an employee working on a single indirect cost activity such as accounting needs no further documentation beyond normal payroll procedures;
- an employee working solely on a single federal award or cost objective (in other words, 100% on the AmeriCorps grant) must keep a semi-annual certification stating that the employee worked solely on that grant for the period covered by the certification. The certification must be signed by the employee and his/her supervisor.
- an employee working on multiple activities across more than one federal award keep personnel activity reports reflecting after the fact distribution of the actual activity, keep a monthly report, and it must be signed by the employee.

Educational Institution programs
These programs must comply with OMB A-21, which abides by a principle of after-the-fact confirmation or determination, such as a signed annual statement with after-the-fact activity records.

Rule #8 - Meet Matching Requirements and Document In-Kind Contributions Appropriately

All match contributions, both cash and in-kind, must be properly valued and clearly identifiable from the grantee's records, have adequate supporting documentation, and meet the criteria established by the appropriate circular, A-110 or A-102 implemented by 45 C.F.R. 2541.

Programs must meet the proposed and approved match amount. AmeriCorps member support costs must be matched with non-federal cash, with the exception of health care. This cash match must be met by each reporting period. Other operating costs (member training, staff costs, operating expenses, evaluation, and administration) may be matched with federal, state, or local cash, or with in-kind contributions. This match must be met by the end of the program year.

Rule #9 - Report Timely and Accurate Financial Information

Financial reporting is done through the emails of the Electronic Periodic Expense Reports due monthly. Final ePERs are due 30 days after the close of the program year.

Rule #10 - Maintain Strong Internal Controls

Maintaining strong internal controls protects organizational resources from waste, fraud, and inefficiency ensures accuracy and reliability in accounting and operating information, ensures compliance with organizational policies, and assists in evaluating organizational performance. Examples of good internal controls include:

· Adequate segregation of duties. The same employee should not authorize, purchase, sign the check and reconcile the statement in the accounting system.
· There should be a specific approval process for disbursing funds. This includes written policies on approving purchases or other disbursements, for instance, multiple signatures required for purchases over a certain amount and clear delineation of who can authorize/make purchases up to a certain amount.
· Maintain documented policies and procedures.
· Establish an adequate review process for financial reports and budgets.
· Maintain adequate cash management procedures, such as monthly bank reconciliations.
· Maintain the physical safety of assets by insuring and conducting a physical inventory a minimum of every two years.
· Establish and maintain a system for tracking time and activities of members and staff.
· Establish a system to follow-up on problems identified to ensure resolution.

D. Allowable costs

A cost is considered allowable under the grant if it is:

- Reasonable
- Within a budget category
- Complies with generally accepted accounting principles
- Complies with OMB cost principles
- Treated consistently with other costs incurred by the organization
- Documented

An allowable cost is allocable to the AmeriCorps grant if it is:

· Incurred specifically for the AmeriCorps program (direct program cost) or
· Benefits both the AmeriCorps program and other work, but can be distributed fairly between the grant and another funding source (this may be a direct program cost OR an administrative cost, depending on specific information about the particular cost)
· Necessary to the overall administration of the program
Administrative (or indirect) costs mean general or centralized expenses of overall administration of an organization that receives Corporation funds and DOES NOT include specific program costs. Administrative costs must be consistent throughout the organization. If you can identify the cost specifically to the program, then it is a direct cost, not an administrative (indirect) cost.

Certain costs are unallowable. Unallowable costs include, but are not limited to:

- Bad Debts
- Losses on Other Contracts
- Contributions/Donations
- Entertainment
- Alcohol
- Fines and Penalties
- Defense of Fraud Proceedings
- Interest
- Lobbying/Legislative Costs
- Certain Advertising, Public Relations, and Organization Costs

See OMB cost principles comparison chart:
http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-cost-principles-requirements-text-comparison.pdf

Funds cannot be charged against the AmeriCorps budget for organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, or similar expenses.
All budgeted funds for Member Support Costs are directly related to the number of AmeriCorps members the program proposed to enroll. If that threshold of members is not obtained, or if members leave the program early, these funds may not be used to pay for other costs. Also, once a member is suspended, terminated, or exited, they may not continue to receive a living allowance.
Payments to individuals for consultant services under the AmeriCorps grant.

E. Match Requirements

Programs must provide and account for matching funds. All programs are required to raise some funds from the private sector, e.g. corporations, foundations, individuals, local businesses, and non-profit organizations. The match for Member Support Costs (excluding health insurance) must be in non-federal cash. Programs may provide matching funds for operating costs in cash or in-kind, and may use non-Corporation for National Service federal funds as match if permitted by the rules governing those federal funds. The current Notice of Funding Opportunity (NOFO) or Notice of Funding Availability (NOFA) establishes the allowable costs for each project year. The overall costs of the program (not including educational awards or child care) may not exceed a federal cost of $13,300 per full-time equivalent member for the 2014-2015 program year.

See New Single Match Guidelines from 2008

Under the new AmeriCorps Rules, the overall Match Requirements will increase up to 50% over a 10 year period following the schedule in the table below.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10 and on
Minimum Overall Share	24%	24%	24%	26%	30%	34%	38%	42%	46%	50%

There are exceptions to the above schedule for programs in rural or economically distressed areas in which case a waiver can be filled out and submitted to the Corporation. If approved, these programs will follow an alternative match schedule. Programs that are approved for the alternative match schedule will still have to increase matching funds over a 10 year period following the table below.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10 and on
Minimum Overall Share	N/A	N/A	N/A	N/A	N/A	N/A	29%	31%	33%	35%

Programs must meet the full match proposed in the application budget. All match specified in the budget is part of the grant award, and is subject to all programmatic restrictions and audit requirements. Further, match in excess of the statutory requirements cannot be reduced by the program once the grant proposal is approved without Commission approval.

Matching funds must be accounted for in the general ledger. Many programs utilize in-kind match (a program's contribution of non-cash outlays of materials or resources to support a percentage of grant award activities). This may include non-cash outlays contributed by other public agencies and institutions, private organizations and individuals. Examples include donated office supplies, equipment, space, and professional services. In general, the value of in-kind contributions is determined by fair market value. If you are including supervisor hours as part of your program's matching, you must document and track supervisor hours properly. You may also use supervisor timesheets as documentation. You may NOT use member timesheets as a way to document supervisor time.

F. Budget and Programmatic changes

The Sub-Grantee must obtain written approval of the State Commission on National and Community Service before making the following budget changes:

· Changes in the scope, objectives or goals of the program, whether or not they involve budgetary changes
· Changes in (or absences of) the program director and other designated personnel
· Changes in the level of member supervision
. Changes in the member's service time slot
· Sub-granting or contracting out any program activities (if not in grant)
· Changes in the grant project period or member class start and end dates (if not specified in grant proposal)
· Other costs requiring prior approval under the OMB cost principles circular
· Reallocation of funds from "Other Participant Support Costs" line items

· Purchases of equipment (if not in the grant budget) using grant funds in which the acquisition cost equals or exceeds the lesser of the capitalization level established by the non-profit organization, or $5000
· Within the "Other member Costs" category, the Sub-Grantee may not decrease funds budgeted for training and education without prior State Commission approval.

The program may not reallocate funds in the "Member Support Costs" category (Category A). This category includes living allowances, FICA, unemployment insurance, worker's compensation, health care, and alternative health care. These costs are directly related to the number of members the program agreed to enroll. If members drop out, funds may not be used to pay for other costs.

A program may reallocate funds within individual sections of the budget up to 10% of the section subtotal without prior approval by the State Commission. The following exceptions require prior Written Approval from the Commission:

· All budget revisions in Member Living Allowances and Members Support Costs
· All budget reductions in "Member Training and Education"
· All budget revisions in administration and program support, Staff Salaries
· All budget revisions in "Corporation Sponsored Meetings"
· Specific costs requiring approval under OMB A-21, A-87, or A-122
· Purchases of equipment that equal or exceed the non-profit's organizational established capitalization level, or, $5000 or more, unless in approved application and budget

Programs should allow 3 weeks for action on budget revisions requiring prior written approval. Program staff may be contacted to clarify information. Requests beyond the approval authority of the State Commission will be forwarded to the Grants Office at the Corporation for final approval. Allow an additional four weeks for response from the grants office.

Programs must submit a budget revision worksheet within **30 days** of any changes to the approved budget with a written narrative describing the changes.

Budget revisions must be in compliance with all grant guidelines and restrictions. Further guidance is available in the AmeriCorps provisions. Contact the State Commission Program Officer for clarification of guidelines.

G. Payments and Reimbursement Claims

The North Dakota Commission for National and Community Service issues a Contract to each approved program. Programs may not charge against the grant until a fully executed Contract (with all signatures from both the grantee and State Commission) has been issued.
Programs may submit claims for reimbursement of costs no more frequently than monthly or less frequently than quarterly, unless other submission schedules are approved by the North Dakota Department of Commerce, Office Manager. The State Commission reimburses for budgeted and approved expenditures already incurred, and under no circumstances will the State Commission reimburse Sub-Grantees for unauthorized or unallowable expenses.
Typically, Sub-Grantees can except to receive payments three weeks after receipt of the draw down request by the State Commission. Sub-Grantees must project this timetable to avoid potential cash flow problems. Sub-Grantees anticipating cash match or cash flow problems need to contact the State Commission as soon as possible.
New Sub-Grantees must complete a W-9 form and submit to the State Commission to be authorized on the state accounting system. Direct deposit is available by completing a direct deposit form accompanied by a deposit slip from your bank account.

To receive payments the program must submit a Request for Draw form to the North Dakota Department of Commerce. (**Incomplete or incorrect requests will not be processed)**

To receive payment, corresponding Electronic Periodic Expense Reports must be approved. ***Also, please keep all documentation of any expenditures being charged to the Corporation and documentation of match received (cash and in-kind). These documents will be reviewed during the site visits and monitoring the program.***

Sub-grantee reimbursements are made on a Cash Basis. The Sub-Grantee must expend cash before claiming expenditure. The Sub-Grantee must not request funds for expenses that have not been paid. Exceptions to this procedure, to accommodate sub-grantees who may experience a cash flow, will be approved by the State Commission Executive Director and the North Dakota Department of Commerce Office Manager. Exceptions will require that the sub-grantee expenditures occur prior to or on the date that the electronic fund transfer is received in the programs account.

H. Monitoring

Monitoring is a mandated function of the State Commission for all grants administered by the State Commission. Monitoring refers to oversight and review activities performed by the State Commission to ensure Sub-Grantees are in compliance with all applicable regulations, laws, and guidelines governing AmeriCorps programs in North Dakota. The goal of the monitoring process is to support programs and help them achieve their goals.
Monitoring covers all areas of program operation including fiscal and programmatic issues, member supervision, progress towards objectives, etc. Monitoring is accomplished through regular communications with program staff via telephone, email, letters, desk audits, and site visits.

State Commission monitoring activities do not replace annual audit responsibilities of Sub-Grantees and Sub-Grantees must submit copies of audit reports to the state commission for review.
Site visits provide a valuable opportunity to accomplish a number of things, including: 1) to gather information beyond written reports (including the review of programmatic, member, and financial files); 2) to make sure the program is making progress toward goals; 3) to identify problem areas first-hand and identify opportunities for improvement; 4) to facilitate a partnership between the Commission and program staff to better understand each other's needs and address problems together in a supportive way; and 5) to celebrate success and achievements. Overall, site visits are meant to ensure success at the outset by forming effective partnerships. Programs are called by Commission staff to schedule a site visit. The Commission believes that site visit scheduling should be done in cooperation with sites and at a time that is convenient, rather than intrusive, to the operating of programs.

Performance monitoring is not optional on the part of the program. In accordance with both the AmeriCorps Provisions and the Contract between the North Dakota Commission and the program, the program shall permit the Commission, the Corporation for National & Community Service, or any other duly authorized agent or governmental agency, to monitor all activities conducted by the program pursuant to the grant. Further, audits or inspections of a program's records can be done at any time during the term of the Contract and for a period of three (3) years following the termination or close of the grant.

I. Audits

Organizations that expend $500,000 or more of total federal awards in a fiscal year are required to obtain a single audit for that year conducted by an independent auditor in accordance with the Single Audit Act, as amended, 31 U.S.C. 7501, et seq., and OMB Circular A-133. "Single audit" is a

term to explain one audit process wherein the organization administering various federal grant programs is audited annually across all of the federal grants it receives. The single audit is required as a basic financial statement audit and is not as specific as a federal audit that typically searches for programmatic and financial compliance issues. A grantee that does not expend $300,000 in a fiscal year in federal funds is exempt from the single audit requirements of OMB Circular A-133 but must conduct financial management reviews of its programs, and records must be available for review and audit. An A-133 requires: a financial statement audit of the organization; a preparation of a schedule of federal awards and expenditures; a test of internal management controls (procurement, payroll, eligibility, cost principles, monitoring, compliance, etc.); an opinion level assurance of the organization's ability; and typically uses a formula driven determination and risk assessment to cover only major programs. Thus, while an organization may undergo an A-133 audit annually, the AmeriCorps program may not be a major focus if it is not considered a major program under the formula.

In addition to required or voluntary audits, AmeriCorps programs need to be aware that under the authority of the Inspector General Act of 1978 (IG Act), as amended, the Office of the Inspector General (OIG) for the Corporation for National Service may conduct audits and investigations related to AmeriCorps programs and operations. A primary purpose of these activities is to detect and deter fraud, waste, abuse, or mismanagement of government funds. Audits by the OIG may be conducted by OIG staff auditors (employees of the federal government) or by auditors of audit firms under contract to perform audits for the OIG. Auditors are authorized by the IG Act to have full access to any grantee records, reports, or other materials necessary to conduct an audit. All audits conducted by the OIG are conducted in accordance with generally accepted government auditing standards. Investigations by the OIG may be conducted by special agents (investigators) who are duly authorized federal law enforcement officers or by other administrative investigators who specialize in noncriminal matters. OIG investigators are authorized by the Act to have full access to any records, reports, or other materials necessary to investigate allegations of fraud or abuse concerning their respective agency's programs and operation. OIG investigators are also authorized to take statements under oath.

J. Reporting Requirements

The North Dakota Commission for National and Community Service uses emails of Electronic Periodic Expenses Report (PER). The Electronic Periodic Expense Report Form serves as a tracking mechanism for the grant as the grantee draws funds from each budget line item. The PER mimics the approved budget for each program and allows programs to enter expenses against both the grant and the match in each line item. The spreadsheet then calculates the balance remaining and the match percentages. ePERs must be submitted by email to the Commission on a monthly basis. The Program Officers and the Executive Director will review the PER for each month before approving cash requests.
Program Director's must also submit Progress Reports due quarterly by email. The Commission needs program Progress Reports in order to submit a Grantee Progress Report to the Corporation.

1st Quarter: (October-December data)
2nd Quarter: (January-March data)
3rd Quarter: (April-June data)
4th Quarter: (July-September data)

In addition, programs must submit required programmatic reports and member forms, and must comply with requests for data or additional reports from the North Dakota Commission for National and Community Service and/or the Corporation for National Service. This may include, but is not

limited to, an annual estimate of unexpended funds in order to gauge funds available for the following year, an annual estimate of expenses to set up accounts payable for the close of the state fiscal year, and specific data, reports, or studies commissioned by the North Dakota Commission for National and Community Service and/or the Corporation for National Service.

If for any reason you cannot submit any of these reports in a timely manner, please notify the State Commission office as soon as possible to avoid withheld payment on cash requests.

K. Close-out of Grant

The State Commission closes grants as determined by federal guidelines and facilitates the closure of sub-grants to programs. The State Commission guidelines are listed below based upon Code of Federal Regulations CFR 2541.500 – 2541.520

1. Closeout Guidelines

(a) The State Commission will close out grant awards when it determines that all applicable administrative actions and all required work of the grant have been completed.

(b) *Reports.* Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this time frame. These may include but are not limited to:

(1) Final performance or progress report;
(2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable);
(3) Final request for payment (SF-270) (if applicable);
(4) Invention disclosure (if applicable);
(5) Federally-owned property report. In accordance with §2541.320(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.

(c) *Cost adjustment.* The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.
(d) *Cash adjustments.* (1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.

(2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

Later disallowances and adjustments
The closeout of a grant does not affect:
(a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;
(b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
(c) Records retention as required in §2541.420;
(d) Property management requirements in §§2541.3120 and 2541.320; and
(e) Audit requirements in §2541.410.

L. Potential Problems to Avoid

This Potential Problem List can be used to identify gaps or areas of improvement needed in financial systems.

Time cards/sheets

- No time cards or documentation for staff hours charged to the grant.
- Unsigned time cards for staff and members.
- No documentation on time card/sheet for members who were required to be physically accompanied while performing service to a vulnerable population
- Time cards are signed weeks later by the supervisor.
- No designation of time/allocation on staff member's time card.
    - a.) Estimated time as opposed to actual time.
    - b.) Allocation of time is based on budget and is not reflective of actual activity.
    - c.) Time allocation is indicated at 100% even though staff member is an officer of the organization who performs other functions not solely related to the grant.
- Lack of activity reports for staff member(s) if time is charged to more than one grant.

Member Records

- Did not <u>enter</u> members in eGrants within the 30 day requirement
- Did not <u>exit</u> members in eGrants within the 30 day requirement
- No timesheets or documentation of member hours
- Incomplete member records.
- Missing Member Eligibility Documentation.
- No member contracts on file.
- No supervisory signature on timesheets.

Lack of Written Policies and Procedures

- Written policies and procedures are required by A-110, Subpart C, b.6 (45 Code of Federal Regulations Part 253).

Lack of Appropriate Documentation

- Expenditures
    - a.) Original invoices are missing.
    - b.) Receiving signature is missing.
    - c.) Approval for the expenditure is not available.
    - d.) Supervisor's authorization on invoice/check is missing.
    - e.) Required documentation and invoices are not stamped or marked paid to reduce the risk of double payment.
    - f.) Documentation is not maintained and accessible for purposes of management, CNCS review, or the required annual or semi-annual audits.
- Match
    - a.) Match is not verifiable by grantee's records.
    - b.) ***Match documentation is missing the following information***: What was donated, signature of donor, amount donated, date of service, and how the donation was valued. (For example, if the donation was for a painter spending 5 hours painting a house and painters in the area get $20 per hour, the documentation should include the calculation of hours and the hourly rate.)
    - c.) The grantee has not maintained adequate documentation of in-kind match. The grantee should not record an in-kind donation as match until it is satisfied that the documentation is sufficient.

d.) The grantee is responsible for ensuring sub-grantees have adequate documentation on file.

- Grantee's Accounting Records
  - a.) Financial records don't identify costs by programmatic year, by budget line item, or don't differentiate between direct and indirect costs.
- Sub-grants
  - a.) No written agreements with program sub-grantees.
- Sub-grantees
  - a.) Lack of oversight of sub-grantees by grantee organization.

Section 2: CFR - General Provisions: AmeriCorps Subtitle C Programs

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Page 22: ND State Commission Introductory Comments and Guidance
Page 23: Code of Federal Regulations with Corporation Provisions and ND Commission Inserts
Page 27: Corporation Provisions applicable to this section
(No Corporation Frequently Asked Questions available for this section)

ND State Commission Introductory Comments and Guidance:

The general provisions for the AmeriCorps Program focus on four primary areas:

- Purpose of the AmeriCorps program
- Allowable program services, member services, and capacity building activities
- Limitations of certain types of member services
- Prohibited member services

Member services are the basis of the AmeriCorps program. The evaluation of ND State Commission AmeriCorps formula programs includes AmeriCorps member retention and completion rates. This means that the recruitment, selection and management of members are very important to the success of a program and its future funding. The ND State Commission encourages AmeriCorps programs to create a strong retention based environment for their members. Some strategies to promote retention can include helping members develop professional goals such as confidence, problem solving, organizational competency, and a broad perspective of community involvement. Regular interaction with members through program meetings, performance conferences, training, and career development presentations, will strengthen the mentoring concept between staff and members.

Direct Services (summarized)
Your approved grant application must specify the direct service activities (interventions) that your members are allowed to perform in order to advance the goals of your program. The interventions should relate directly to your performance measure(s).

Capacity Building Activities (summarized)
AmeriCorps members that are supported under your AmeriCorps project may perform capacity-building activities that advance your program goals. Your approved grant application must include a description of the capacity building activities and the amount of time that members will be devoting to an event/activity. The ND State Commission requires AmeriCorps members to participate in a minimum of two national service day events each project year.

Limitations of Certain Types of Member Service (summarized)
The ND State Commission requires sub-grantees to use timesheets that allocate a member's service hours to direct service, fund raising (limit 10%), education/training (limit 20%) and capacity building.

Prohibited Activities (summarized)
The project's member service agreements, service site agreements and site supervisor agreements must clearly outline the activities that are prohibited and which AmeriCorps members may not engage. The project's orientation and training sessions must clearly document that each member received instruction about the prohibited activities.

Code of Federal Regulations Applicable to Section 2

Part 2520—General Provisions: AmeriCorps Subtitle C Programs

§2520.5 What definitions apply to this part?
§2520.10 What is the purpose of the AmeriCorps subtitle C program described in parts 2520 through 2524 of this chapter?
§2520.20 What service activities may I support with my grant?
§2520.25 What direct service activities may AmeriCorps members perform?
§2520.30 What capacity-building activities may AmeriCorps members perform?
§2520.35 Must my program recruit or support volunteers?
§2520.40 Under what circumstances may AmeriCorps members in my program raise resources?
§2520.45 How much time may an AmeriCorps member spend fundraising?
§2520.50 How much time may AmeriCorps members in my program spend in education and training activities?
§2520.55 When may my organization collect fees for services provided by AmeriCorps members?
§2520.60 What government-wide requirements apply to staff fundraising under my AmeriCorps grant?
§2520.65 What activities are prohibited in AmeriCorps subtitle C programs?

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§2520.5 What definitions apply to this part? Review this link for more information.

§2520.10 What is the purpose of the AmeriCorps subtitle C program described in parts 2520 through 2524 of this chapter? Review this link for more information.

§2520.20 What service activities may I support with my grant? Review this link for more information.

§2520.25 What direct service activities may AmeriCorps members perform?
(a) The AmeriCorps members you support under your grant may perform direct service activities that will advance the goals of your program, that will result in a specific identifiable service or improvement that otherwise would not be provided, and that are included in, or consistent with, your Corporation-approved grant application.
(b) Your members' direct service activities must address local environmental, educational, public safety (including disaster preparedness and response), or other human needs.
(c) Direct service activities generally refer to activities that provide a direct, measurable benefit to an

CNCS AmeriCorps Grant Provisions, Part IV, D, 1. relating to CFR 2520.25

1. Planning for the Term of Service. The grantee must develop member positions that provide for meaningful service activities and performance criteria that are appropriate to the skill level of members. The grantee is responsible for ensuring that the positions do not include or put the AmeriCorps member in a situation in which the member is at risk for engaging in any prohibited activity (see 45 CFR § 2520.65), activity that would violate the non-duplication and non-displacement requirements (see 45 CFR § 2540.100), or prohibited fundraising activity (see 45 CFR §§ 2520.40-.45). The grantee must accurately and completely describe the activities to be performed by each member in a position description. Position descriptions must be provided to CNCS upon request. The grantee must ensure that each member has sufficient opportunity to complete the required number of hours to qualify for an education award. In planning for the member's term of service, the grantee must account for holidays and other time off, and must provide each member with sufficient opportunity to make up missed hours.

individual, a group, or a community.
(d) Examples of the types of direct service activities AmeriCorps members may perform include, but are not limited to, the following:
(1) Tutoring children in reading;
(2) Helping to run an after-school program;
(3) Engaging in community clean-up projects;
(4) Providing health information to a vulnerable population;
(5) Teaching as part of a professional corps;
(6) Providing relief services to a community affected by a disaster; and
(7) Conducting a neighborhood watch program as part of a public safety effort.
[70 FR 39597, July 8, 2005]

§2520.30 What capacity-building activities may AmeriCorps members perform?
Capacity-building activities that AmeriCorps members perform should enhance the mission, strategy, skills, and culture, as well as systems, infrastructure, and human resources of an organization that is meeting unmet community needs. Capacity-building activities help an organization gain greater independence and sustainability.
(a) The AmeriCorps members you support under your grant may perform capacity-building activities that advance your program's goals **and that are included in, or consistent with, your Corporation-approved grant application.**
(b) Examples of capacity-building activities your members may perform include, but are not limited to, the following:
(1) Strengthening volunteer management and recruitment, including:
(i) Enlisting, training, or coordinating volunteers;
(ii) Helping an organization develop an effective volunteer management system;
(iii) Organizing service days and other events in the community to increase citizen engagement;
(iv) Promoting retention of volunteers by planning recognition events or providing ongoing support and follow-up to ensure that volunteers have a high-quality experience; and
(v) Assisting an organization in reaching out to individuals and communities of different backgrounds when encouraging volunteering to ensure that a breadth of experiences and expertise is represented in service activities.
(2) Conducting outreach and securing resources in support of service activities that meet specific needs in the community;
(3) Helping build the infrastructure of the sponsoring organization, including:
(i) Conducting research, mapping community assets, or gathering other information that will strengthen the sponsoring organization's ability to meet community needs;
(ii) Developing new programs or services in a sponsoring organization seeking to expand;
(iii) Developing organizational systems to improve efficiency and effectiveness;
(iv) Automating organizational operations to improve efficiency and effectiveness;
(v) Initiating or expanding revenue-generating operations directly in support of service activities; and
(vi) Supporting staff and board education.
(4) Developing collaborative relationships with other organizations working to achieve similar goals in the community, such as:

ND State Commission Clarification and Guidance relating to CFR 2520.30
An explanation of capacity-building activities must be included in your grant application supported with a detail of the activities that are planned and the amount of service time that will be devoted by each member.

State Commission Policy 1-39-10 (2) requires AmeriCorps members to participate in a minimum of two national service day events each project year.

(i) Community organizations, including faith-based organizations;
(ii) Foundations;
(iii) Local government agencies;
(iv) Institutions of higher education; and
(v) Local education agencies or organizations.
[70 FR 39597, July 8, 2005]

§2520.35 Must my program recruit or support volunteers?

(a) Unless the Corporation or the State commission, as appropriate, approves otherwise, some component of your program that is supported through the grant awarded by the Corporation must involve recruiting or supporting volunteers.
(b) If you demonstrate that requiring your program to recruit or support volunteers would constitute a fundamental alteration to your program structure, the Corporation (or the State commission for formula programs) may waive the requirement in response to your written request for such a waiver in the grant application.
[70 FR 39597, July 8, 2005]

ND State Commission Clarification and Guidance relating to CFR 2520.35
The ND State Commission formula grant program requires applicants to include in their grant application a performance measure for volunteer recruitment and AmeriCorps member development.

§2520.40 Under what circumstances may AmeriCorps members in my program raise resources?
Review this link for more information

§2520.45 How much time may an AmeriCorps member spend fundraising?
An AmeriCorps member may spend no more than **10 percent** of his or her originally agreed-upon term of service, as reflected in the member enrollment in the National Service Trust, performing fundraising activities, as described in §2520.40.
[70 FR 39597, July 8, 2005]

§2520.50 How much time may AmeriCorps members in my program spend in education and training activities?
(a) No more than **20 percent** of the aggregate of all AmeriCorps member service hours in your program, as reflected in the member enrollments in the National Service Trust, may be spent in education and training activities.

ND State Commission Clarification and Guidance
The ND State Commission requires sub-grantees to use timesheets that show the various allocations of member service time reported by the AmeriCorps member. The major categories are direct services, capacity building activities, fundraising, and education/training.
State Commission Policy 1-53-14 (0) requires sub-grantees to comply with CFR 2520.45 and 2520.50

State Commission Policy 1-36-08 (1) requires sub-grantees to report member service hours to the State Commission on a quarterly basis. The reporting tool will be provided by the State Commission.

State Commission Policy 1-44-13 (0) requires the document timesheet(s) to be signed and dated by the member and supervisor in a timely fashion, not to exceed one week after the last service date logged.

ND State Commission Clarification and Guidance
Each page of a timesheet report must be signed/dated by the member and supervisor in accordance with the OMB Guidelines A-21 and A-122 Cost Principles.

(b) Capacity-building activities and direct service activities do not count towards the 20 percent cap on education and training activities. [70 FR 39597, July 8, 2005]

§2520.55 When may my organization collect fees for services provided by AmeriCorps members? Review this link for more information.

§2520.60 What government-wide requirements apply to staff fundraising under my AmeriCorps grant? Review this link for more information.

§2520.65 What activities are prohibited in AmeriCorps subtitle C programs?

(a) While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or the Corporation, staff and members may not engage in the following activities:
(1) Attempting to influence legislation;
(2) Organizing or engaging in protests, petitions, boycotts, or strikes;
(3) Assisting, promoting, or deterring union organizing;
(4) Impairing existing contracts for services or collective bargaining agreements;
(5) Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;
(6) Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;
(7) Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, **constructing or operating facilities** devoted to religious instruction or worship, **maintaining facilities** primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;
(8) Providing a direct benefit to—
(i) A business organized for profit;
(ii) A labor union;
(iii) A partisan political organization;
(iv) A nonprofit organization that fails to comply with the restrictions contained in section 501C(3) of the Internal Revenue Code of 1986 except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative;

CNCS AmeriCorps Grant Provisions, Part IV, D, 3. relating to CFR 2520.65
3. Prohibited Activities. While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or CNCS, staff and members may not engage in the following activities (see 45 CFR § 2520.65):

ND State Commission Clarification and Guidance
The ND State Commission recommends sub-grantees include in the member timesheet certification regarding the accuracy of the hours reported, a short statement in which the member's signature also attests to the fact that he/she did not engage in any prohibited activities.

State Commission Policy 1-42-13 (0) Outlines the prohibited activities that AmeriCorps members may not engage in directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed.

State Commission Policy 1-54-14 (0) requires sub-grantees to provide evidence that their staff, host site supervisors and AmeriCorps members received a list of prohibited activities with relevant instructions in accordance with CFR 2520.65.

(v) An organization engaged in the religious activities described in paragraph (g) of this section, unless Corporation assistance is not used to support those religious activities; and
(9) Conducting a voter registration drive or using Corporation funds to conduct a voter registration drive;
(10) Providing abortion services or referrals for receipt of such services; and
(11) Such other activities as the Corporation may prohibit.
(b) Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-Corporation funds. Individuals should not wear the AmeriCorps logo while doing so.
[67 FR 45359, July 9, 2002. Redesignated at 70 FR 39597, July 8, 2005; 73 FR 53759, Sept. 17, 2008; 74 FR 46506, Sept. 10, 2009]

Corporation Grant Provisions Applicable to Section 2

D. SUPERVISION AND SUPPORT

1. Planning for the Term of Service. The grantee must develop member positions that provide for meaningful service activities and performance criteria that are appropriate to the skill level of members. The grantee is responsible for ensuring that the positions do not include or put the AmeriCorps member in a situation in which the member is at risk for engaging in any prohibited activity (see 45 CFR § 2520.65), activity that would violate the non-duplication and non-displacement requirements (see 45 CFR § 2540.100), or prohibited fundraising activity (see 45 CFR §§ 2520.40-.45). The grantee must accurately and completely describe the activities to be performed by each member in a position description. Position descriptions must be provided to CNCS upon request. The grantee must ensure that each member has sufficient opportunity to complete the required number of hours to qualify for an education award. In planning for the member's term of service, the grantee must account for holidays and other time off, and must provide each member with sufficient opportunity to make up missed hours.

2. Member Service Agreements. The grantee must require that each member sign a member service agreement that includes, at minimum, the following:
a. Member position description;
b. The minimum number of service hours (as required by statute) and other requirements (as developed by the grantee) necessary to successfully complete the term of service and to be eligible for the education award;
c. The amount of the education award being offered for successful completion of the terms of service in which the individual is enrolling;
d. Standards of conduct, as developed by the grantee or sub-grantee;
e. The list of prohibited activities, including those specified in the regulations at 45 CFR § 2520.65 (see paragraph 3, below);
f. The text of 45 CFR §§ 2540.100(c)-(f), which relates to Non-duplication and Nondisplacement;
g. The text of 45 CFR §§ 2520.40-.45, which relates to fundraising by members;
h. Requirements under the Drug-Free Workplace Act (41 U.S.C. § 701 *et seq*.);
i. Civil rights requirements, complaint procedures, and rights of beneficiaries (see Section V.F.);
j. Suspension and termination rules;
k. The specific circumstances under which a member may be released for cause;
l. Grievance procedures; and
m. Other requirements established by the grantee.

The grantee should ensure that the service agreement is signed before commencement of service so that members are fully aware of their rights and responsibilities.

3. Prohibited Activities. While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or CNCS, staff and members may not engage in the following activities (see 45 CFR § 2520.65):
a. Attempting to influence legislation;
b. Organizing or engaging in protests, petitions, boycotts, or strikes;
c. Assisting, promoting, or deterring union organizing;
d. Impairing existing contracts for services or collective bargaining agreements;
e. Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;
f. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;
g. Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;
h. Providing a direct benefit to—

i. A business organized for profit;
ii. A labor union;
iii. A partisan political organization;
iv. A nonprofit organization that fails to comply with the restrictions contained in section 501C (3) of the Internal Revenue Code of 1986 related to engaging in political activities or substantial amount of lobbying except that nothing in these 9 provisions shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and

v. An organization engaged in the religious activities described in paragraph 3.g. above, unless CNCS assistance is not used to support those religious activities;
i. Conducting a voter registration drive or using CNCS funds to conduct a voter registration drive;
j. Providing abortion services or referrals for receipt of such services; and
k. Such other activities as CNCS may prohibit.
AmeriCorps members may not engage in the above activities directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed above. Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-CNCS funds. Individuals should not wear the AmeriCorps logo while doing so.

4. Supervision. The grantee must provide members with adequate supervision by qualified supervisors consistent with the approved application. The grantee must conduct an orientation for members, including training on what activities are prohibited during AmeriCorps service hours, and comply with any pre-service orientation or training required by CNCS. The grantee must ensure that it does not exceed the limitation on member service hours spent in education and training set forth in 45 CFR § 2520.50.

5. Performance Reviews. The grantee must conduct and keep a record of at least a midterm and an end-of-term written evaluation of each member's performance for Full and Half-Time members and an end-of-term written evaluation for less than Half-time members. The end-of-term evaluation should address, at a minimum, the following factors:
a. Whether the member has completed the required number of hours;
b. Whether the member has satisfactorily completed assignments; and

c. Whether the member has met other performance criteria that were clearly communicated at the beginning of the term of service.

6. Timekeeping. The grantee is required to ensure that time and attendance recordkeeping is conducted by the AmeriCorps member's supervisor. This time and attendance record is used to document member eligibility for in-service and post-service benefits. Time and attendance records must be signed and dated both by the member and his/her supervisor.
If a Professional Corps program wants to follow the timekeeping practices of its profession and certify that members have completed the minimum required hours, excluding sick and vacation days, it must get advance written approval from CNCS.
7. Member Death or Injury. The grantee must immediately report any member deaths or serious injuries to the designated CNCS Program Officer.

Section 4: CFR 2522.200 - Subpart B - Member Eligibility, Requirements, Enrollment and Benefits

Contents

Page 30: ND State Commission Introductory Comments and Guidance
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State Commission Introductory Comments and Guidance:

The majority of audit findings by the Corporation typically come from noncompliant member eligibility and expenditure documentation. Sub-grantees must carefully follow the regulations and provisions to ensure that each member is eligible to serve, and if applicable, receive a living allowance. Premature approval to serve and/or disbursed living allowances can result in serious financial repercussions, such as, the disallowance of service hours and disbursed living allowances occurring during periods in which a member's eligibility and expenditure were not supported by proper documentation.

The State Commission realizes the importance and urgency of member recruitment and initial interventions at the start of a project year; however, in the hierarchy of project regulatory guidance, failure to comply with proper eligibility/expenditure documentation rules can have a serious financial impact on the subsequent future of a project. In comparison, the unexpected failure to meet member recruitment goals, member service hours, volunteer development and project performance measures are issues that do impact a project's future and overall performance, but are viewed with varying levels of tolerance and opportunity for improvement, and are the supportive reasoning of the existence of performance measures.

Primary Eligibility Documentation (summarized)
Individuals who have been selected to become AmeriCorps members must meet all eligibility criteria before being hired, enrolled or being allowed to begin service or employment. The North Dakota State Commission's guidance in this area is stronger than the Corporation (CNCS). The North Dakota State Commission sub-grantees are required to conduct a certified review and obtain copies of all eligibility documentation gathered under CFR 2522.200 (a) through (e). To aid in this documentation process the ND State Commission provides to sub-grantees a "member file checklist" to ensure proper documentation.

Criminal History Background Checks (summarized)
The first compliance rule relating to criminal history background checks is applicants cannot be hired, enrolled or begin service or employment without first having cleared the National Sex Offender Public Registry (NSOPR) check. The second compliance rule relating to criminal history background checks is the project must initiate a state history check and Federal Bureau of Investigation (FBI) fingerprint background check no later than the start of service or employment (*if the member is residing in a different state than he/she is working you must conduct checks in both states*). Hired members can begin serving once their NSOPR has cleared, and the state(s) and FBI checks are requested (pending). Additionally, **while criminal history checks from the state or FBI are pending, the member** (*if in a covered position working with vulnerable populations*) **must be in physical presence (accompanied)** of an assigned authorized representative who has been previously cleared for such access to vulnerable populations. It is good practice to include in your welcome letter to new members, who they will be assigned to for accompaniment while their background checks are pending and the rules of accompaniment and documentation. **Accompaniment may cease once either the state or FBI background checks have cleared.**

Code of Federal Regulations Applicable to Section 4

CFR 2522.200 - Subpart B—Participant Eligibility, Requirements, and Benefits

§2522.200 What are the eligibility requirements for an AmeriCorps participant?
§2522.205 To whom must I apply the National Service Criminal History Check eligibility criteria?
§2522.206 [Reserved]
§2522.207 How do I determine an individual's eligibility to serve in a covered position?
§2522.210 How are AmeriCorps participants recruited and selected?
§2522.220 What are the required terms of service for AmeriCorps participants?
§2522.230 Under what circumstances may an AmeriCorps participant be released from completing a term of service, and what are the consequences?
§2522.235 Is there a limit on the number of terms an individual may serve in an AmeriCorps State and National program?
§2522.240 What financial benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?
§2522.245 How are living allowances disbursed?
§2522.250 What other benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?

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§2522.200 What are the eligibility requirements for an AmeriCorps participant?
(**a**) ***Eligibility.*** An AmeriCorps participant must—
(1)(i) Be at least 17 years of age at the commencement of service; or
(ii) Be an out-of-school youth 16 years of age at the commencement of service participating in a program described in §2522.110(b)(3) or (g);
(2)(i) Have a high school diploma or its equivalent; or
(ii) Not have dropped out of elementary or secondary school to enroll as an AmeriCorps participant and must agree to obtain a high school diploma or its equivalent prior to using the education award; or
(iii) Obtain a waiver from the Corporation of the requirements in paragraphs (a)(2)(i) and (a)(2)(ii) of this section based on an independent evaluation secured by the program demonstrating that the individual is not capable of obtaining a high school diploma or its equivalent; or
(iv) Be enrolled in an institution of higher education on an ability to benefit basis and be considered eligible for funds under section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091);
(3) Be a citizen, national, or lawful permanent resident alien of the United States;
(4) Satisfy the National Service Criminal History Check eligibility criteria pursuant to 45 CFR 2540.202.

CNCS AmeriCorps Grant Provisions, Part IV, A, 5. relating to CFR 2522.200
5. Member or participant means an individual:
a. Who has been selected by a grantee or sub-grantee to serve in an approved national service position;
b. Who is a U.S. citizen, U.S. national, or lawful permanent resident alien of the United States;
c. Who is at least 17 years of age at the commencement of service unless the member is out of school and enrolled in a full-time, year-round youth corps or full-time summer program as defined in the Act (42 U.S.C. § 12572 (a)(3)(B)(x)), in which case he or she must be between the ages of 16 and 25, inclusive, and
d. Who has received a high school diploma or its equivalent, agrees to obtain a high school diploma or its equivalent (unless this requirement is waived based on an individual education assessment conducted by the program) and the individual did not drop out of an elementary or secondary school to enroll in the program, or is enrolled in an institution of higher education on an ability to benefit basis and is considered eligible for funds under section 1091 of title 20.

(b) ***Written declaration regarding high school diploma sufficient for enrollment.*** For purposes of enrollment, if an individual provides a written declaration under penalty of law that he or she meets the requirements in paragraph (a) of this section relating to high school education, a program need not obtain additional documentation of that fact.

(c) ***Primary documentation of status as a U.S. citizen or national.*** The following are acceptable forms of certifying status as a U.S. citizen or national:

(1) A birth certificate showing that the individual was born in one of the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, or the Northern Mariana Islands;

(2) A United States passport;

(3) A report of birth abroad of a U.S. Citizen (FS-240) issued by the State Department;

(4) A certificate of birth-foreign service (FS 545) issued by the State Department;

(5) A certification of report of birth (DS-1350) issued by the State Department;

(6) A certificate of naturalization (Form N-550 or N-570) issued by the Immigration and Naturalization Service; or

(7) A certificate of citizenship (Form N-560 or N-561) issued by the Immigration and Naturalization Service.

(d) ***Primary documentation of status as a lawful permanent resident alien of the United States.*** The following are acceptable forms of certifying status as a lawful permanent resident alien of the United States:

(1) Permanent Resident Card, INS Form I-551;

(2) Alien Registration Receipt Card, INS Form I-551;

(3) A passport indicating that the INS has approved it as temporary evidence of lawful admission for permanent residence; or

(4) A Departure Record (INS Form I-94) indicating that the INS has approved it as temporary evidence of lawful admission for permanent residence.

(e) ***Secondary documentation of citizenship or immigration status.*** If primary documentation is not available, the program must obtain written approval from the Corporation that other documentation is sufficient to demonstrate the individual's status as a U.S. citizen, U.S. national, or lawful permanent resident alien.

[64 FR 37413, July 12, 1999, as amended at 67 FR 45360, July 9, 2002; 77 FR 60931, Oct. 5, 2012]

ND State Commission Clarification and Guidance

In addition to a dated certified review, the ND State Commission requires sub-grantees to obtain and maintain a date stamped copy of all eligibility primary documentation gathered under CFR 2522.200 (a) through (e). To aid in this documentation process the ND State Commission provides to sub-grantees a "member file checklist" to ensure proper documentation.

The 2014 AmeriCorps State and National Grant Provisions, Part IV, H, 2. relating to CFR 2522.200 (b), (c), (d) Unless an individual social security number and citizenship was verified through the My AmeriCorps Portal, the grantee must obtain and maintain documentation as required by 45 CFR § 2522.200(c). CNCS does not require programs to make and retain copies of the actual documents used to confirm age or citizenship eligibility requirements, such as a driver's license, or birth certificate, as long as the grantee has a consistent practice of identifying the documents that were reviewed and maintaining a record of the review.

Enrolling in the My AmeriCorps portal requires members to certify their high school status. Such certification fulfills the grantee's verification requirement to obtain and maintain documentation from the member relating to the member's high school education. If the member is incapable of obtaining a high school diploma or its equivalent, as determined by an independent evaluation, the grantee must retain a copy of the supporting evaluation.

The ND State Commission requires projects to make a copy of the My AmeriCorps Portal citizenship verification results for member files.

State Commission Policy 1-02-03 (3) reminds recipients and sub-recipients, when selecting AmeriCorps members, to be aware of the state and federal laws regarding a conflict of interest.

§2522.205 To whom must I apply the National Service Criminal History Check eligibility criteria?
You must apply the National Service Criminal History Check eligibility criteria to individuals serving in covered positions. A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary.
[77 FR 60931, Oct. 5, 2012]

§2522.206 [Reserved]

§2522.207 How do I determine an individual's eligibility to serve in a covered position?
To determine an individual's eligibility to serve in a covered position, you must follow the procedures in part 2540 of this chapter.
[77 FR 60932, Oct. 5, 2012]

CNCS AmeriCorps Grant Provisions, Part IV, H, 4. relating to CFR 2522.205
4. National Service Criminal History Check. The specific requirements of the National Service Criminal History Check, including the timing and recordkeeping requirements, are specified at 45 CFR §§ 2540.200 - .207. You must retain a record of the NSOPW search and associated results either by printing the screen(s) or by some other method that retains paper or digital images of the NSOPW checks, inclusive of the date record for when the search was performed. Inability to demonstrate that you conducted an NSOPW or the required criminal history check, as specified in the regulations, may result in sanctions, including disallowance of costs.

Review the following link to learn more about Criminal History Check guidance and other applicable requirements
https://www.nationalserviceresources.gov/national-service-criminal-history-check-resources#.VGuqAaPnb5o

§2522.210 How are AmeriCorps participants recruited and selected?
(a) *Local recruitment and selection.* In general, AmeriCorps participants will be selected locally by an approved AmeriCorps program, and the selection criteria will vary widely among the different programs. Nevertheless, AmeriCorps programs must select their participants in a fair and non-discriminatory manner which complies with part 2540 of this chapter. In selecting participants, programs must also comply with the recruitment and selection requirements specified in this section.
(b) *National and State recruitment and selection.*
(1) The Corporation and each State Commission will establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved AmeriCorps positions, which may include positions available under titles I and II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 *et seq.*). The national and state recruitment and placement system will be designed and operated according to Corporation guidelines.
(2) *Dissemination of information.* The Corporation and State Commissions will disseminate information regarding available approved AmeriCorps positions through cooperation with secondary schools, institutions of higher education, employment service offices, community-based organizations, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*) and other State agencies that primarily serve qualified individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to disadvantaged youths and youths who are qualified individuals with disabilities.
(c) *National leadership pool*—
(1) *Selection and training.* From among individuals recruited under paragraph (b) of this section or nominated by service programs, the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training will be provided by the Corporation directly or through a grant, contract, or cooperative agreement as the Corporation determines.
(2) *Emphasis on certain individuals.* In selecting individuals to receive leadership training under this provision, the Corporation will make special efforts to select individuals who have served—

(i) In the Peace Corps;
(ii) As VISTA volunteers;
(iii) As participants in AmeriCorps programs receiving assistance under parts 2520 through 2524 of this chapter;
(iv) As participants in National Service Demonstration programs that received assistance from the Commission on National and Community Service; or
(v) As members of the Armed Forces of the United States and who were honorably discharged from such service.
(3) *Assignment.* At the request of a program that receives assistance, the Corporation may assign an individual who receives leadership training under paragraph (c)(1) of this section to work with the program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program will be considered to be a participant of the program.

§2522.220 What are the required terms of service for AmeriCorps participants?
(a) *Term of Service.* A term of service may be defined as:
(1) *Full-time service.* 1,700 hours of service during a period of not more than one year.
(2) *Part-time service.* 900 hours of service during a period of not more than two years.
(3) *Reduced part-time term of service.* The Corporation may reduce the number of hours required to be served in order to receive an educational award for certain part-time participants serving in approved AmeriCorps positions. In such cases, the educational award will be reduced in direct proportion to the reduction in required hours of service. These reductions may be made for summer programs, for categories of participants in certain approved AmeriCorps programs and on a case-by-case, individual basis as determined by the Corporation.
(4) *Summer programs.* A summer program, in which less than 1700 hours of service are performed, are part-time programs.
(b) *Eligibility for subsequent term.* A participant will only be eligible to serve a subsequent term of service if that individual has received a satisfactory performance review for any previous term of service in an approved AmeriCorps position, in accordance with the requirements of paragraph (d) of this section and §2526.15. Mere eligibility for a second or further term of service in no way guarantees a participant selection or placement.

CNCS AmeriCorps Grant Provisions, Part IV, D, 1.
Relating to CFR 2522.220
1. Planning for the Term of Service. The grantee must develop member positions that provide for meaningful service activities and performance criteria that are appropriate to the skill level of members. The grantee is responsible for ensuring that the positions do not include or put the AmeriCorps member in a situation in which the member is at risk for engaging in any prohibited activity (see 45 CFR § 2520.65), activity that would violate the non-duplication and non-displacement requirements (see 45 CFR § 2540.100), or prohibited fundraising activity (see 45 CFR §§ 2520.40-.45). The grantee must accurately and completely describe the activities to be performed by each member in a position description. Position descriptions must be provided to CNCS upon request. The grantee must ensure that each member has sufficient opportunity to complete the required number of hours to qualify for an education award. In planning for the member's term of service, the grantee must account for holidays and other time off, and must provide each member with sufficient opportunity to make up missed hours.

ND State Commission Clarification and Guidance
State Commission Policy 1-08-04 (3) allows up to four terms of service in AmeriCorps State and National regardless of the type of terms. However, a member may only receive the value of two full-time education awards

(c) ***Participant evaluation.*** For the purposes of determining a participant's eligibility for an educational award as described in §2522.240(a) and eligibility to serve a second or additional term of service as described in paragraph (c) of this section, each AmeriCorps grantee is responsible for conducting a mid-term and end-of-term evaluation. A mid-term evaluation is not required for a participant who is released early from a term of service or in other circumstances as approved by the Corporation. The end-of-term evaluation should consist of:

> **CNCS AmeriCorps Grant Provisions, Part IV, D, 5, relating to CFR 2522.200 (c)**
> **5. Performance Reviews.** The grantee must conduct and keep a record of at least a midterm and an end-of-term written evaluation of each member's performance for Full and Half-Time members and an end-of-term written evaluation for less than Half-time members. The end-of-term evaluation should address, at a minimum, the following factors:
> a. Whether the member has completed the required number of hours;
> b. Whether the member has satisfactorily completed assignments; and
> c. Whether the member has met other performance criteria that were clearly communicated at the beginning of the term of service.

(1) A determination of whether the participant:
(i) Successfully completed the required term of service described in paragraph (a) of this section, making the participant eligible for an educational award as described in §2522.240(a);
(ii) Was released from service for compelling personal circumstances, making the participant eligible for a pro-rated educational award as described in §2522.230(a)(2); or
(iii) Was released from service for cause, making the participant ineligible to receive an educational award for that term of service as described in §2522.230(b)(3); and
(2) A participant performance and conduct review to determine whether the participant's service was satisfactory, which will assess whether the participant:
(i) Has satisfactorily completed assignments, tasks, or projects, or, for those participants released from service early, whether the participant made a satisfactory effort to complete those assignments, tasks, or projects that the participant could reasonably have addressed in the time the participant served; and
(ii) Has met any other criteria which had been clearly communicated both orally and in writing at the beginning of the term of service.
(d) ***Limitation.*** The Corporation may set a minimum or maximum percentage of hours of a full-time, part-time, or reduced term of service described in paragraphs (a)(1),(a)(2), and (a)(3) of this section that a participant may engage in training, education, or other similar approved activities
(e) ***Grievance procedure.*** Any AmeriCorps participant wishing to contest a program's ruling of unsatisfactory performance may file a grievance according to the procedures set forth in part 2540 of this chapter. If that grievance procedure or subsequent binding arbitration procedure finds that the participant did in fact satisfactorily complete a term of service, then that individual will be eligible to receive an educational award and/or be eligible to serve a second term of service.
(f) ***Extension of term for disaster purposes.*** If approved by the Corporation, a program may permit an AmeriCorps participant performing service directly related to disaster relief efforts to continue in a term of service for a period of up to 90 days beyond the period otherwise specified. A period of service performed by an AmeriCorps participant in an originally agreed-upon term of service and service performed under this paragraph shall constitute a single term of service for the purposes of §2526.50(a) of this chapter.
[59 FR 13796, Mar. 23, 1994, as amended at 73 FR 53759, Sept. 17, 2008; 74 FR 46506, Sept. 10, 2009; 75 FR 51410, Aug. 20, 2010]

§2522.230 Under what circumstances may an AmeriCorps participant be released from completing a term of service, and what are the consequences?

An AmeriCorps program may release a participant from completing a term of service for compelling personal circumstances, as determined by the program, or for cause.

(a) ***Release for compelling personal circumstances.***

(1) An AmeriCorps program may release a participant upon a determination by the program, consistent with the criteria listed in paragraphs (a)(6) and (a)(7) of this section, that the participant is unable to complete the term of service because of compelling personal circumstances, if the participant has otherwise performed satisfactorily and has completed at least fifteen percent of the agreed term of service.

(2) A participant who is released for compelling personal circumstances and who completes at least 15 percent of the required term of service is eligible for a pro-rated education award.

(3) The program must document the basis for any determination that compelling personal circumstances prevent a participant from completing a term of service.

(4) Compelling personal circumstances include:

(i) Those that are beyond the participant's control, such as, but not limited to:

(A) A participant's disability or serious illness;

(B) Disability, serious illness, or death of a participant's family member if this makes completing a term unreasonably difficult or impossible; or

(C) Conditions attributable to the program or otherwise unforeseeable and beyond the participant's control, such as a natural disaster, a strike, relocation of a spouse, or the nonrenewal or premature closing of a project or program, that make completing a term unreasonably difficult or impossible;

(ii) Those that the Corporation, has for public policy reasons, determined as such, including:

(A) Military service obligations;

(B) Acceptance by a participant of an opportunity to make the transition from welfare to work; or

(C) Acceptance of an employment opportunity by a participant serving in a program that includes in its approved objectives the promotion of employment among its participants.

(5) Compelling personal circumstances do not include leaving a program:

(i) To enroll in school;

CNCS AmeriCorps Grant Provisions, Part IV, F, relating to CFR 2522.230 (a)

F. RELEASE FROM PARTICIPATION

Grantees may release members from participation for two reasons: (a) for compelling personal circumstances; and (b) for cause. See 45 CFR § 2522.230 for requirements. Whether the reason for the release amounts to circumstances beyond the member's control is determined by the grantee, consistent with the criteria listed in 45 CFR § 2522.230(a). Failure to follow the requirements set forth in regulation (e.g., releasing an individual for non-compelling personal circumstances when the individual is leaving to go to school) is considered non-compliance with grant requirements and may result in disallowed costs and other remedies for non-compliance. In addition to the regulations, the following applies:

No Automatic Disqualification if Released for Cause*:* A release for cause covers all circumstances in which a member does not successfully complete his/her term of service for reasons other than compelling personal circumstances. Therefore, it is possible for a member to receive a satisfactory performance review and be released for cause. For example, a member who is released for cause from a first term–e.g. the individual has decided to take a job offer–but who, otherwise, performed well, would not be disqualified from enrolling for a subsequent term as long as the individual received a satisfactory performance evaluation for the first period of service.

(ii) To obtain employment, other than in moving from welfare to work or in leaving a program that includes in its approved objectives the promotion of employment among its participants; or
(iii) Because of dissatisfaction with the program.
(6) As an alternative to releasing a participant, an AmeriCorps*State/National program may, after determining that compelling personal circumstances exist, suspend the participant's term of service for up to two years (or longer if approve' by the Corporation based on extenuating circumstances) to allow the participant to complete service with the same or similar AmeriCorps program at a later time.
(b) ***Release for cause.***
(1) A release for cause encompasses any circumstances other than compelling personal circumstances that warrant an individual's release from completing a term of service.
(2) AmeriCorps programs must release for cause any participant who is convicted of a felony or the sale or distribution of a controlled substance during a term of service.
(3) A participant who is released for cause may not receive any portion of the AmeriCorps education award or any other payment from the National Service Trust.
(4) An individual who is released for cause must disclose that fact in any subsequent applications to participate in an AmeriCorps program. Failure to do so disqualifies the individual for an education award, regardless of whether the individual completes a term of service.
(5) An AmeriCorps*State/National participant released for cause may contest the program's decision by filing a grievance. Pending the resolution of a grievance procedure filed by an individual to contest a determination by a program to release the individual for cause, the individual's service is considered to be suspended. For this type of grievance, a program may not—while the grievance is pending or as part of its resolution—provide a participant with federally-funded benefits (including payments from the National Service Trust) beyond those attributable to service actually performed, without the program receiving written approval from the Corporation.
(6) An individual's eligibility for a subsequent term of service in AmeriCorps will not be affected by release for cause from a prior term of service so long as the individual received a satisfactory end-of-term performance review as described in §2522.220(c)(2) for the period served in the prior term.
(7) Except as provided in paragraph (e) of this section, a term of service from which an individual is released for cause counts as one of the terms of service described in §2522.235 for which an individual may receive the benefits described in §§2522.240 through 2522.250.
(c) ***Suspended service.***
(1) A program must suspend the service of an individual who faces an official charge of a violent felony (e.g., rape, homicide) or sale or distribution of a controlled substance.
(2) A program must suspend the service of an individual who is convicted of possession of a controlled substance.
(3) An individual may not receive a living allowance or other benefits, and may not accrue service hours, during a period of suspension under this provision.
(d) ***Reinstatement.***
(1) A program may reinstate an individual whose service was suspended under paragraph (c)(1) of this section if the individual is found not guilty or if the charge is dismissed.
(2) A program may reinstate an individual whose service was suspended under paragraph (c)(2) of this section only if the individual demonstrates the following:
(i) For an individual who has been convicted of a first offense of the possession of a controlled substance, the individual must have enrolled in a drug rehabilitation program;
(ii) For an individual who has been convicted for more than one offense of the possession of a controlled substance, the individual must have successfully completed a drug rehabilitation program.
(e) ***Release prior to serving 15 percent of a term of service.*** If a participant is released for reasons other than misconduct prior to completing 15 percent of a term of service, the term will not be considered one of the terms of service described in §2522.220(b) for which an individual may receive the benefits described in §§2522.240 through 2522.250.

[64 FR 37413, July 12, 1999, as amended at 73 FR 53759, Sept. 17, 2008; 74 FR 46506, Sept. 10, 2009; 75 FR 51410, Aug. 20, 2010]

§2522.235 Is there a limit on the number of terms an individual may serve in an AmeriCorps State and National program?

(a) ***General limitation.*** An individual may receive the benefits described in §2522.240 through §2522.250 for no more than four terms of service in an AmeriCorps State and National program, regardless of whether those terms were served on a full-, part-, or reduced part-time basis, consistent with the limitations in §2526.50.

(b) ***Early release.*** Except as provided in paragraph (c) of this section, a term of service from which an individual is released for compelling personal circumstances or for cause counts as one of the terms of service for which an individual may receive the benefits described in §2522.240 through §2522.250.

(c) ***Release prior to serving fifteen percent of a term.*** If a person is released for reasons other than misconduct prior to completing fifteen percent of a term of service, the term will not be considered one of the terms of service for which an individual may receive the benefits described in §§2522.240 through 2522.250.

[75 FR 51410, Aug. 20, 2010]

§2522.240 What financial benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?

(a) ***AmeriCorps education awards.*** An individual serving in an approved AmeriCorps State and National position may receive an education award from the National Service Trust upon successful completion of each of no more than four terms of service as defined in §2522.220, consistent with the limitations in §2526.50.

(b) ***Living allowances*****—**

(1)*Amount.* Subject to the provisions of this part, any individual who participates on a full-time basis in an AmeriCorps program carried out using assistance provided pursuant to §2521.30 of this chapter, including an AmeriCorps program that receives educational awards only pursuant to §2521.30(c) of this chapter, will receive a living allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under §105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955). This requirement will not apply to any program that was in existence prior to September 21, 1993 (the date of the enactment of the National and Community Service Trust Act of 1993).

(2) *Maximum living allowance.* With the exception of a professional corps described in §2522.110(a)(3), the AmeriCorps living allowances may not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955). A

CNCS AmeriCorps Grant Provisions, Part IV, G, 1, relating to CFR 2522.240 (b)

1. Living Allowance Distribution. A living allowance is not a wage. Grantees must not pay a living allowance on an hourly basis. Grantees should pay the living allowance in regular increments, such as weekly or bi-weekly, paying an increased increment only on the basis of increased living expenses such as food, housing, or transportation. Payments should not fluctuate based on the number of hours served in a particular time period, and must cease when the member's service ceases.

If a member serves all required hours and is permitted to conclude his or her term of service before the originally agreed upon end of term, the grantee may not provide a lump sum payment to the member. Similarly, if a member is selected after the program's start date, the grantee must provide regular living allowance payments from the member's start date and may not increase the member's living allowance incremental payment or provide a lump sum to make up any missed payments.

Education Award Program Fixed-Amount grants (EAPs) may provide a living allowance or other in-service benefits to their members, but are not required to do so. Full-cost and other Fixed Amount grantees must provide a living allowance to their members.

professional corps AmeriCorps program may provide a stipend in excess of the maximum, subject to the following conditions: (i) Corporation assistance may not be used to pay for any portion of the allowance; and

(ii) The program must be operated directly by the applicant, selected on a competitive basis by submitting an application to the Corporation, and may not be included in a State's application for AmeriCorps program funds distributed by formula under §2521.30(a)(2) of this chapter.

(3) *Living allowances for part-time participants.* Programs may, but are not required to, provide living allowances to individuals participating on a part-time basis (or a reduced term of part-time service authorized under §2522.220(a)(3). Such living allowances should be prorated to the living allowance authorized in paragraph (b)(1) of this section and will comply with such restrictions therein.

(4) *Waiver or reduction of living allowance for programs.* The Corporation may, at its discretion, waive or reduce the living allowance requirements if a program can demonstrate to the satisfaction of the Corporation that such requirements are inconsistent with the objectives of the program, and that participants will be able to meet the necessary and reasonable costs of living (including food, housing, and transportation) in the area in which the program is located.

(5) *Waiver or reduction of living allowance by participants.* A participant may waive all or part of the receipt of a living allowance. The participant may revoke this waiver at any time during the participant's term of service. If the participant revokes the living allowance waiver, the participant may begin receiving his or her living allowance prospective from the date of the revocation; a participant may not receive any portion of the living allowance that may have accrued during the waiver period.

CNCS AmeriCorps Grant Provisions, Part IV, G, 2, relating to CFR 2522.240 (b) (5)

2. Waiving the Living Allowance. If a living allowance is paid, a member may waive all or part of the payment of a living allowance if he or she believes his or her public assistance may be lost or decreased because of the living allowance. Even if a member waives his or her right to receive the living allowance, it is possible—depending on the specific public assistance program rules—that the amount of the living allowance that the member is eligible to receive will be deemed available. A member who has waived the living allowance may revoke the waiver at any time and may begin receiving the living allowance going forward from the date the individual revoked the waiver. A member may not receive any portion of the living allowance for the period of time the living allowance was waived.

(6) *Limitation on Federal share.* The Federal share, including Corporation and other Federal funds, of the total amount provided to an AmeriCorps participant for a living allowance is limited as follows:

(i) In no case may the Federal share exceed 85% of the minimum required living allowance enumerated in paragraph (b)(1) of this section.

(ii) For professional corps described in paragraph (b)(2)(i) of this section, Corporation and other Federal funds may be used to pay for no portion of the living allowance.

ND State Commission Clarification and Guidance

The matching requirements have been changed and the 85% rule no longer applies. The Corporation has created a new general matching requirement for the first three years.
http://www.nationalservice.gov/sites/default/files/upload/08_0227_single_match_faqs.pdf

(iii) If the minimum living allowance requirements has been waived or reduced pursuant to paragraph (b)(4) of this section and the amount of the living allowance provided to a participant has been reduced correspondingly—
(A) In general, the Federal share may not exceed 85% of the reduced living allowance; however,
(B) If a participant is serving in a program that provides room or board, the Corporation will consider on a case-by-case basis allowing the portion of that living allowance that may be paid using Corporation and other Federal funds to be between 85% and 100%.
(C) ***Financial benefits*** *for participants during an extended term of service for disaster purposes.* An AmeriCorps participant performing extended service under §2522.220(f) may continue to receive a living allowance under paragraph (b) and other benefits under §2522.250, but may not receive an additional AmeriCorps educational award under paragraph (a).
[59 FR 13796, Mar. 23, 1994, as amended at 71 FR 10611, Mar. 2, 2006; 73 FR 53760, Sept. 17, 2008; 74 FR 46506, Sept. 10, 2009; 75 FR 51410, Aug. 20, 2010]

§2522.245 How are living allowances disbursed?
A living allowance is not a wage and programs may not pay living allowances on an hourly basis. Programs must distribute the living allowance at regular intervals and in regular increments, and may increase living allowance payments only on the basis of increased living expenses such as food, housing, or transportation. Living allowance payments may only be made to a participant during the participant's term of service and must cease when the participant concludes the term of service. Programs may not provide a lump sum payment to a participant who completes the originally agreed-upon term of service in a shorter period of time.
[73 FR 53760, Sept. 17, 2008]

§2522.250 What other benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?
(a) ***Child Care.*** Grantees must provide child care through an eligible provider or a child care allowance in an amount determined by the Corporation to those full-time participants who need child care in order to participate.
(1) *Need.* A participant is considered to need child care in order to participate in the program if he or she:
(i) Is the parent or legal guardian of, or is acting in loco parentis for, a child under 13 who resides with the participant;
(ii) Has a family income that does not exceed 75 percent of the State's median income for a family of the same size;
(iii) At the time of acceptance into the program, is not currently receiving child care assistance from another source, including a parent or guardian, which would continue to be provided while the participant serves in the program; and
(iv) Certifies that he or she needs child care in order to participate in the program.
(2) *Provider eligibility.* Eligible child care providers are those who are eligible child care providers as defined in the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(5)).
(3) *Child care allowance.* The amount of the child-care allowance may not exceed the applicable payment rate to an eligible provider established by the State for child care funded under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(4)(A)).
(4) *Corporation share.* The Corporation will pay 100 percent of the child care allowance, or, if the program provides child care through an eligible provider, the actual cost of the care or the amount of the allowance, whichever is less.

(b) ***Health care.***
(1) Grantees must provide to all eligible participants who meet the requirements of paragraph (b)(2) of this section health care coverage that—
(i) Provides the minimum benefits determined by the Corporation;
(ii) Provides the alternative minimum benefits determined by the Corporation; or
(iii) Does not provide all of either the minimum or the alternative minimum benefits but that has a fair market value equal to or greater than the fair market value of a policy that provides the minimum benefits.
(2) *Participant eligibility.* A full-time participant is eligible for health care benefits if he or she is not otherwise covered by a health benefits package providing minimum benefits established by the Corporation at the time he or she is accepted into a program. If, as a result of participation, or if, during the term of service, a participant demonstrates loss of coverage through no deliberate act of his or her own, such as parental or spousal job loss or disqualification from Medicaid, the participant will be eligible for health care benefits.
(3) *Corporation share.* (i) Except as provided in paragraph (b)(3)(ii) of this section, the Corporation's share of the cost of health coverage may not exceed 85 percent.
(ii) The Corporation will pay no share of the cost of a policy that does not provide the minimum or alternative minimum benefits described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section.
[59 FR 13796, Mar. 23, 1994, as amended at 70 FR 39600, July 8, 2005]

Corporation Grant Provisions Applicable to Section 4

Applicable to Subpart B - Member Eligibility, Requirements, Enrollment and Benefits

Contents

A. Definition member or participant
B. Affiliation with the AmeriCorps National Service Program
C. Member recruitment, selection, and exit
D. Supervision and support
E. Changes in member terms of service or program slots
F. Release from participation
G. Living allowances, other in-service benefits, and taxes
H. Member records and confidentiality

A. Definition member or participant
Member or participant means an individual:
a. Who has been selected by a grantee or sub-grantee to serve in an approved national service position;
b. Who is a U.S. citizen, U.S. national, or lawful permanent resident alien of the United States;
c. Who is at least 17 years of age at the commencement of service unless the member is out of school and enrolled in a full-time, year-round youth corps or full-time summer program as defined in the Act (42 U.S.C. § 12572 (a)(3)(B)(x)), in which case he or she must be between the ages of 16 and 25, inclusive, and
d. Who has received a high school diploma or its equivalent, agrees to obtain a high school diploma or its equivalent (unless this requirement is waived based on an individual education assessment conducted by the program) and the individual did not drop out of an elementary or secondary school to enroll in the program, or is enrolled in an institution of higher education on an ability to benefit basis and is considered eligible for funds under section 1091 of title 20.

B. AFFILIATION WITH THE AMERICORPS NATIONAL SERVICE PROGRAM
1. Identification as an AmeriCorps Program or Member. The grantee shall identify the program as an AmeriCorps program and members as AmeriCorps members. All partnership agreements/MOUs related to the AmeriCorps program must explicitly state that the program is an AmeriCorps program and AmeriCorps members are the resource being provided.
2. The AmeriCorps Name and Logo. AmeriCorps is a registered service mark of CNCS. CNCS provides a camera-ready logo. All grantee and sub-grantee websites shall clearly state that they are an AmeriCorps grantee and shall prominently display the AmeriCorps logo. Grantees and sub-grantees shall use the AmeriCorps name and logo on service gear and public materials such as stationery, application forms, recruitment brochures, on-line position postings or other recruitment materials, orientation materials, member curriculum materials, signs, banners, press releases and publications related to their AmeriCorps program in accordance with CNCS requirements.
To publicize the relationship between the program and AmeriCorps, the grantee shall describe their program as “an AmeriCorps program.” Grantees shall provide information or training to their AmeriCorps members about how their program is part of the national AmeriCorps program and about the other national service programs of CNCS. Grantees are strongly encouraged to place signs that include the AmeriCorps name and logo at their service sites and may use the slogan “AmeriCorps Serving Here.” AmeriCorps members should state they are AmeriCorps members during public speaking opportunities.
The grantee may not alter the AmeriCorps logo, and must obtain written permission from CNCS before using the AmeriCorps name or logo on materials that will be sold, or permitting donors to use the AmeriCorps name or logo in promotional materials. The grantee may not use or display the AmeriCorps

name or logo in connection with any activity prohibited by statute, regulation, or in these grant provisions.

C. MEMBER RECRUITMENT, SELECTION, AND EXIT

Member recruitment and selection requirements are in CNCS's regulations at 45 CFR §§ 2522.210 and Part 2540. In addition, the grantee must ensure that the following procedures are followed:

1. Notice to CNCS's National Service Trust. The grantee must notify CNCS's National Service Trust, via the MyAmeriCorps Portal, within 30 days of a member's start of, completion of, suspension from, or release from, a term of service. Suspension of service is defined as an extended period during which the member is not serving, nor accumulating service hours or receiving AmeriCorps benefits.
The grantee also must notify the Trust, via the My AmeriCorps Portal, when a change in a member's term of service is approved and changed (i.e. from full-time to less than full-time or vice versa). Failure to report such changes within 30 days may result in sanctions to the grantee, up to and including, suspension or termination of the grant. Grantees or sub-grantees meet notification requirements by using the appropriate electronic system to inform CNCS of changes within the required time frames. Any questions regarding the Trust should be directed to the Trust Office (800) 942-2677.
Penalties for false information: Any individual who makes a materially false statement or representation in connection with the approval or disbursement of an education award or other payment from the National Service Trust may be liable for the recovery of funds and subject to civil and criminal sanctions.
2. Parental Consent. Parental or legal guardian consent must be obtained for members under 18 years of age before members begin a term of service. Grantees may also include an informed consent form of their own design as part of the member service agreement materials.
3. Reasonable Accommodation.
Programs and activities must be accessible to persons with disabilities, and the grantee must provide reasonable accommodation to the known mental or physical disabilities of otherwise qualified members, service recipients, applicants, and staff. All selections and project assignments must be made without regard to the need to provide reasonable accommodation. See the FAQ for more information: (http://www.nationalservice.gov/sites/default/files/documents/AmeriCorps_State_National_Policy_FAQs.pdf).
4. Assigning Members to Service Locations. The grantee is required to ensure that all operating sites and all service locations are entered in the My AmeriCorps portal for all members within 30 days of members' starting a term of service. The grantee is required to include the name of the organization, and the full address or zip-plus-four of the service locations where each member will be serving. If a member is serving at multiple service locations, the program must select the one where the member serves a majority of his or her hours for the member's assignment, however, all service locations must be listed in the portal.
5. Completion of Terms of Service. The grantee must ensure that each member has sufficient opportunity to complete the required number of hours of service to qualify for the education award. Members must be exited within 30 days of the end of their term of service. Should a program not be renewed, a member who was scheduled to continue in a term of service may either be placed in another program, where feasible, or if the member has completed at least 15% of the service hour requirement, a member may receive a pro-rated education award.
6. Member Exit. In order for a member to receive an education award from the National Service Trust, the grantee must certify to the National Service Trust that the member satisfactorily and successfully completed the term of service, and is eligible to receive the education benefit. The grantee (and any individual or entity acting on behalf of the grantee) is responsible for the accuracy of the information certified on the end-of-term certification.

D. SUPERVISION AND SUPPORT

1. Planning for the Term of Service. The grantee must develop member positions that provide for meaningful service activities and performance criteria that are appropriate to the skill level of members. The grantee is responsible for ensuring that the positions do not include or put the AmeriCorps member in a situation in which the member is at risk for engaging in any prohibited activity (see 45 CFR § 2520.65), activity that would violate the non-duplication and non-displacement requirements (see 45 CFR § 2540.100), or prohibited fundraising activity (see 45 CFR §§ 2520.40-.45). The grantee must accurately and completely describe the activities to be performed by each member in a position description. Position descriptions must be provided to CNCS upon request. The grantee must ensure that each member has sufficient opportunity to complete the required number of hours to qualify for an education award. In planning for the member's term of service, the grantee must account for holidays and other time off, and must provide each member with sufficient opportunity to make up missed hours.

2. Member Service Agreements. The grantee must require that each member sign a member service agreement that includes, at minimum, the following:

a. Member position description;

b. The minimum number of service hours (as required by statute) and other requirements (as developed by the grantee) necessary to successfully complete the term of service and to be eligible for the education award;

c. The amount of the education award being offered for successful completion of the terms of service in which the individual is enrolling;

d. Standards of conduct, as developed by the grantee or sub-grantee;

e. The list of prohibited activities, including those specified in the regulations at 45 CFR § 2520.65 (see paragraph 3, below);

f. The text of 45 CFR §§ 2540.100(c)-(f), which relates to Non-duplication and Nondisplacement;

g. The text of 45 CFR §§ 2520.40-.45, which relates to fundraising by members;

h. Requirements under the Drug-Free Workplace Act (41 U.S.C. § 701 *et seq*.);

i. Civil rights requirements, complaint procedures, and rights of beneficiaries (see Section V.F.);

j. Suspension and termination rules;

k. The specific circumstances under which a member may be released for cause;

l. Grievance procedures; and

m. Other requirements established by the grantee.

The grantee should ensure that the service agreement is signed before commencement of service so that members are fully aware of their rights and responsibilities.

3. Prohibited Activities. While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or CNCS, staff and members may not engage in the following activities (see 45 CFR § 2520.65):

a. Attempting to influence legislation;

b. Organizing or engaging in protests, petitions, boycotts, or strikes;

c. Assisting, promoting, or deterring union organizing;

d. Impairing existing contracts for services or collective bargaining agreements;

e. Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;

f. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;

g. Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;

h. Providing a direct benefit to—
i. A business organized for profit;
ii. A labor union;
iii. A partisan political organization;
iv. A nonprofit organization that fails to comply with the restrictions contained in section 501C(3) of the Internal Revenue Code of 1986 related to engaging in political activities or substantial amount of lobbying except that nothing in these provisions shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and
v. An organization engaged in the religious activities described in paragraph 3.g. above, unless CNCS assistance is not used to support those religious activities;
i. Conducting a voter registration drive or using CNCS funds to conduct a voter registration drive;
j. Providing abortion services or referrals for receipt of such services; and
k. Such other activities as CNCS may prohibit.
AmeriCorps members may not engage in the above activities directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed above. Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-CNCS funds. Individuals should not wear the AmeriCorps logo while doing so.
4. Supervision. The grantee must provide members with adequate supervision by qualified supervisors consistent with the approved application. The grantee must conduct an orientation for members, including training on what activities are prohibited during AmeriCorps service hours, and comply with any pre-service orientation or training required by CNCS. The grantee must ensure that it does not exceed the limitation on member service hours spent in education and training set forth in 45 CFR § 2520.50.
5. Performance Reviews. The grantee must conduct and keep a record of at least a midterm and an end-of-term written evaluation of each member's performance for Full and Half-Time members and an end-of-term written evaluation for less than Half-time members. The end-of-term evaluation should address, at a minimum, the following factors:
a. Whether the member has completed the required number of hours;
b. Whether the member has satisfactorily completed assignments; and
c. Whether the member has met other performance criteria that were clearly communicated at the beginning of the term of service.
6. Timekeeping. The grantee is required to ensure that time and attendance recordkeeping is conducted by the AmeriCorps member's supervisor. This time and attendance record is used to document member eligibility for in-service and post-service benefits. Time and attendance records must be signed and dated both by the member and his/her supervisor.
If a Professional Corps program wants to follow the timekeeping practices of its profession and certify that members have completed the minimum required hours, excluding sick and vacation days, it must get advance written approval from CNCS.
7. Member Death or Injury. The grantee must immediately report any member deaths or serious injuries to the designated CNCS Program Officer. 10

E. CHANGES IN MEMBER TERMS OF SERVICE OR PROGRAM SLOTS
1. Changes that Require CNCS Approval. Circumstances may arise within a program that necessitate changing the type of unfilled AmeriCorps member positions awarded to a grantee or sub-grantee, or changing the term of service of a currently enrolled member. Note that once a member is exited with a partial education award, the remaining portion of that education award is not available for use. The following changes require written approval from CNCS's Office of Grants Management as well as written approval and concurrence from the State Commission or National Direct grantee:
a. A change in the number of member service year positions in the grant; and/or

b. A change in the funding level of the grant.
2. Changing Slot Types (unfilled positions). Except for Full-cost and Professional Corps Fixed Amount grants, grantees or sub-grantees may change the type of slots awarded to their program if:
a. The change does not increase the total MSYs authorized in the Notice of Grant Award (e.g. one half-time position cannot be changed to one full-time position); and
b. The change does not increase the value of the education award.
All changes to slot type are subject to availability of funds in the Trust, must be Trust neutral, and must comply with all assumptions on which Trust prudence and continued solvency are predicted. Changes in slot type may be made by the grantee directly in the My AmeriCorps Portal.
3. Changing a Term of Service (currently enrolled positions). Changes in terms of service may not result in an increased number of MSYs for the program. With the exception of Education Award only grants, grantees with Fixed Amount grants may not convert members to less-than-full-time slots.
a. Full-time. State Commissions and National Direct Organizations may authorize or approve occasional changes of currently enrolled full-time members to less than full-time members. Impact on program quality should be factored into approval of requests. CNCS will not cover health care or childcare costs for less than full-time members. It is not allowable to transfer currently enrolled full-time members to a less than full-time status simply to provide a less than full-time education award.
b. Less than Full-time. CNCS discourages changing less than full-time members to full-time because it is very difficult to manage, unless done very early in the member's term of service. State Commissions and National Direct Parent Organizations may authorize or approve such changes so long as their current budget can accommodate such changes. Programs must keep in mind that a member's minimum 1700 hours must be completed within 12 months of the member's original start date.
c. Refilling Slots. With the exception of grantees whose awards have special grant conditions under 45 CFR § 2543.14 or § 2541.120, AmeriCorps State and National programs that have fully enrolled their awarded member slots are allowed to replace 11
any member who terminates service before completing 30 percent of his/her term provided that the member who is terminated is not eligible for and does not receive a pro-rated education award. Programs may not refill the same slot more than once.
As a fail-safe mechanism to ensure that resources are available in the National Service Trust to finance all earned education awards, CNCS will suspend refilling if either:
i. Total AmeriCorps enrollment reaches 97 percent of awarded slots; or
ii. The number of refills reaches five percent of awarded slots.
d. Slots eligible for refill may not be transferred. Additionally, they may not be combined with unfilled slots.
4. Formula and State Competitive Grant Slot Transfers. State commissions are allowed to transfer slots among their state formula and competitive sub-grantees in order to maximize enrollment and cost effectiveness without prior approval. State commissions may not transfer slots between competitive and formula sub-grantees, or vice-versa. State commissions may not transfer funds among their competitive sub-grantees. Slots eligible for refill are not allowed to be transferred.
5. Notice to Childcare and Healthcare Providers. The grantee must immediately notify CNCS's designated agents, in writing, when a member's status changes in a manner that affects eligibility for childcare or healthcare. See Section IV.G. 6.

F. RELEASE FROM PARTICIPATION

Grantees may release members from participation for two reasons: (a) for compelling personal circumstances; and (b) for cause. See 45 CFR § 2522.230 for requirements. Whether the reason for the release amounts to circumstances beyond the member's control is determined by the grantee, consistent with the criteria listed in 45 CFR § 2522.230(a). Failure to follow the requirements set forth in regulation (e.g., releasing an individual for compelling personal circumstances when the individual is leaving to go to school) is considered non-compliance with grant requirements and may result in

disallowed costs and other remedies for non-compliance. In addition to the regulations, the following applies:

***No Automatic Disqualification if Released for Cause**:* A release for cause covers all circumstances in which a member does not successfully complete his/her term of service for reasons other than compelling personal circumstances. Therefore, it is possible for a member to receive a satisfactory performance review and be released for cause. For example, a member who is released for cause from a first term–e.g. the individual has decided to take a job offer–but who, otherwise, performed well, would not be disqualified from enrolling for a subsequent term as long as the individual received a satisfactory performance evaluation for the first period of service.

G. LIVING ALLOWANCES, OTHER IN-SERVICE BENEFITS, AND TAXES

1. Living Allowance Distribution. A living allowance is not a wage. Grantees must not pay a living allowance on an hourly basis. Grantees should pay the living allowance in regular increments, such as weekly or bi-weekly, paying an increased increment only on the basis of increased living expenses such as food, housing, or transportation. Payments should not fluctuate based on the number of hours served in a particular time period, and must cease when the member's service ceases.

If a member serves all required hours and is permitted to conclude his or her term of service before the originally agreed upon end of term, the grantee may not provide a lump sum payment to the member. Similarly, if a member is selected after the program's start date, the grantee must provide regular living allowance payments from the member's start date and may not increase the member's living allowance incremental payment or provide a lump sum to make up any missed payments.

Education Award Program Fixed-Amount grants (EAPs) may provide a living allowance or other in-service benefits to their members, but are not required to do so. Full-cost and other Fixed Amount grantees must provide a living allowance to their members.

2. Waiving the Living Allowance. If a living allowance is paid, a member may waive all or part of the payment of a living allowance if he or she believes his or her public assistance may be lost or decreased because of the living allowance. Even if a member waives his or her right to receive the living allowance, it is possible—depending on the specific public assistance program rules—that the amount of the living allowance that the member is eligible to receive will be deemed available. A member who has waived the living allowance may revoke the waiver at any time and may begin receiving the living allowance going forward from the date the individual revoked the waiver. A member may not receive any portion of the living allowance for the period of time the living allowance was waived.

3. Taxes and Insurance. Requirements related to member living allowances and benefits are in 45 CFR §§ 2522.240 and 2522.250. In addition, grantees must ensure that the following procedures are followed:

a. Liability Insurance Coverage. The grantee is responsible for ensuring adequate general liability coverage for the organization, employees and members, including coverage of members engaged in on- and off-site project activities.

b. FICA (Social Security and Medicare taxes). Unless the grantee obtains a ruling from the Social Security Administration or the Internal Revenue Service that specifically exempts its AmeriCorps members from FICA requirements, the grantee must pay FICA for any member receiving a living allowance. The grantee also must withhold 7.65% from the member's living allowance.

c. Income Taxes. The grantee must withhold Federal personal income taxes from member living allowances, requiring each member to complete a W-4 form at the beginning of the term of service and providing a W-2 form at the close of the tax year. The grantee must comply with any applicable state or local tax requirements.

d. Worker's Compensation. Some states require worker's compensation for AmeriCorps members. Grantees must check with State Departments of Labor or state commissions to determine worker's compensation requirements. If worker's compensation is not required, grantees must obtain Occupational, Accidental, and 13

Death and Dismemberment coverage for members to cover in-service injury or incidents.
4. Healthcare Coverage. Except for EAPs, Professional Corps, or members covered under a collective bargaining agreement, the grantee must provide, or make available, healthcare insurance to those members serving a 1700-hour full-time term who are not otherwise covered by a healthcare policy at the time the member begins his/her term of service. The grantee must also provide, or make available, healthcare insurance to members serving a 1700-hour full-time term who lose coverage during their term of service as a result of service or through no deliberate act of their own. CNCS will not cover healthcare costs for dependent coverage.
Less-than-full-time members who are serving in a full-time capacity for a sustained period of time (e.g. a full-time summer project) are eligible for healthcare benefits. Programs may provide health insurance to less-than-full-time members serving in a full-time capacity, but they are not required to do so. For purposes of this provision, a member is serving in a full-time capacity when his/her regular term of service will involve performing service on a normal full-time schedule for a period of six weeks or more. A member may be serving in a full-time capacity without regard to whether his/her agreed term of service will result in a full-time Segal AmeriCorps Education Award.

Any of the following health insurance options will satisfy the requirement for health insurance for full-time AmeriCorps members (or less than full-time members serving in a full-time capacity): staying on parents' or spouse plan; insurance obtained through the Federal Health Insurance Marketplace of at least the Bronze level plan; insurance obtained through private insurance broker; Medicaid, Medicare or military benefits. By July 1, 2015, all AmeriCorps programs must have MEC coverage. For fiscal year 2014, programs must document evidence of working towards MEC compliance.
Per a May 14, 2014 notice, the Department of Health and Human Services (HHS) issued guidance that created a special healthcare enrollment period (through December 31, 2014) for all AmeriCorps State and National members. Starting Service: If you start AmeriCorps State and National service after the open enrollment period which ended on March 30, 2014, you have 60 days from the service start date to sign-up for healthcare coverage through the federal healthcare marketplace. Ending Service: At the conclusion of service, you will also be able to purchase a qualified health plan from the federal healthcare marketplace outside of the annual open enrollment period. You have 60 days from the service end date to sign-up for healthcare coverage. If coverage is being provided via the Healthcare Marketplace, and thus third party payment is not an option, programs must develop a process to reimburse members for monthly premiums. Reimbursements for health insurance premiums are considered taxable income for the member, and programs must have a way to document such reimbursements.

5. Administration of Childcare Payments.
In general, CNCS will provide for childcare payments, which will be administered through an outside contractor. Requirements and eligibility criteria are in the AmeriCorps regulations, 45 CFR § 2522.250. Members serving in EAPs are not eligible for the childcare benefit. CNCS will not cover childcare costs for members who served on a less than full-time basis, or who have ceased serving. Programs may provide child care to less-than-full-time members serving in a full-time capacity, but they are not required to do so. Grantees that choose to provide childcare as a match source (as approved in their budget) may contact the childcare contractor for technical assistance. Grantees can contact the AmeriCorps hotline at 1-800-942-2677 with questions regarding childcare. The criteria for member eligibility are contained in 45 CFR § 2522.250. Also see the FAQs, (http://www.nationalservice.gov/sites/default/files/documents/AmeriCorps_State_National_Policy_FAQs.pdf)) for more detailed information on administering childcare and healthcare benefits.

6. Notice to Childcare and Healthcare Providers. The grantee must immediately notify CNCS's designated agents in writing, when a member's status changes in a manner that affects the member's

eligibility for childcare. Examples of changes in status include: changes to a member's scheduled service so that he/she is no longer serving on a full-time basis, terminating or releasing a member from service, and suspending a member for cause for a lengthy or indefinite time period. Program directors should contact the childcare provider on childcare related changes.

H. MEMBER RECORDS AND CONFIDENTIALITY

1. Recordkeeping. The grantee must maintain records, including the position description, sufficient to establish that each member was eligible to participate and that the member successfully completed all program requirements. A program may store member files electronically if the program can ensure that the validity and integrity of the record is not compromised. CNCS will recognize electronically stored files where:

The electronic storage procedures and system provide for the safe-keeping and security of the records, including:

a. Sufficient prevention of unauthorized alterations or erasures of records;
b. Effective security measures to ensure that only authorized persons have access to records;
c. Adequate measures designed to prevent physical damage to records; and
d. A system providing for back-up and recovery of records; and

The electronic storage procedures and system provide for the easy retrieval of records in a timely fashion, including:

a. Storage of the records in a physically accessible location;
b. Clear and accurate labeling of all records; and
c. Storage of the records in a usable, readable format.15

Where there is a requirement for a signature on a record, electronically stored records must include an image of the original signature; records without signatures, when required, are considered incomplete.

2. Verification of Eligibility. The grantee must obtain and maintain documentation as required by 45 CFR § 2522.200(c). CNCS does not require programs to make and retain copies of the actual documents used to confirm age or citizenship eligibility requirements, such as a driver's license, or birth certificate, as long as the grantee has a consistent practice of identifying the documents that were reviewed and maintaining a record of the review.

Enrolling in the My AmeriCorps portal requires members to certify their high school status. Such certification fulfills the grantee's verification requirement to obtain and maintain documentation from the member relating to the member's high school education. If the member is incapable of obtaining a high school diploma or its equivalent, as determined by an independent evaluation, the grantee must retain a copy of the supporting evaluation.

3. Confidential Member Information. The grantee must maintain the confidentiality of information regarding individual members. The grantee must obtain the prior written consent of all members before using their names, photographs and other identifying information for publicity, promotional or other purposes. Grantees may release aggregate and other non-identifying information, and are required to release member information to CNCS and its designated contractors. The grantee must permit a member who submits a written request for access to review records that pertain to the member and were created pursuant to this grant.

4. National Service Criminal History Check. The specific requirements of the National Service Criminal History Check, including the timing and recordkeeping requirements, are specified at 45 CFR §§ 2540.200 - .207. You must retain a record of the NSOPW search and associated results either by printing the screen(s) or by some other method that retains paper or digital images of the NSOPW checks, inclusive of the date record for when the search was performed. Inability to demonstrate that you conducted an NSOPW or the required criminal history check, as specified in the regulations, may result in sanctions, including disallowance of costs.

Frequently Asked Questions Applicable to Subpart B, Member Eligibility, Requirements, Enrollment and Benefits Applicable to Section 4

B. Recruiting and Selecting Members

B. 1. May an AmeriCorps program director recruit family members to become AmeriCorps members?
There is nothing in the Corporation's statute, regulations, or provisions related to the recruitment of family members. However, there may be state laws that cover this issue. If a grantee wants to disallow the recruitment of family members, it may impose requirements that are more stringent than Corporation requirements. Grantees should consult local counsel or the State Attorney General for more information.

B. 2. May I charge an application fee to cover the administrative overhead of recruiting?
Charging an application fee to a prospective member to apply to serve as an AmeriCorps member is not allowed. Programs may charge application fees to prospective members who are applying to their educational institution or participating in their academic program if such fees are required of all applicants, but not for applying to serve as an AmeriCorps member. This policy is in alignment with federal policy on student aid.

B. 3. What are the requirements for a person to be eligible to serve as an AmeriCorps member?
The National and Community Service Act and our regulations establish eligibility requirements for AmeriCorps members. See 42 U.S.C. § 12591; 45 CFR § 2522.200. To confirm citizenship status, applicants must produce the original of one of the forms of primary documentation listed in the regulations. Please note that the Form I-9, used to document eligibility for employment, is not sufficient to document citizenship.
The Corporation does not require programs to make and retain copies of the actual documents used to confirm eligibility as long as the program has a consistent practice of identifying the documents that were reviewed and maintains a record of the review.
A consistent practice for documenting eligibility should:

- Identify the specific original document reviewed.
- Identify the eligibility criterion or criteria that the document confirms.
- Include any identification number for the document reviewed.
- Include the signature of the reviewer confirming the review and the date of the review.
- Birth certificates, driver's licenses, and passports are examples of documents that confirm a member is old enough to serve. In some cases, the same document, such as a birth certificate issued by one of the states, can be used to confirm both age and citizenship.

B. 4. How does a grantee obtain approval for an alternative form of documentation of citizenship status?
The Corporation's regulations at 45 CFR 2522.200 (c) and (d) include a list of documents that programs may consider to determine citizenship, lawful permanent resident alien, or national status. If a member wishes to use a document that is not on the list, the grantee must seek written approval from the Corporation to do so. The Office of Grants Management is responsible for determining grants compliance questions, including member eligibility issues.

B. 5. Is an individual granted asylum or refugee status eligible to serve in AmeriCorps?
No. In order to be eligible to serve as an AmeriCorps member, individuals must be citizens or lawful permanent residents with the appropriate documentation. 5

B. 6. Must an individual be a U.S. citizen, U.S. national, or lawful permanent resident alien at the time of enrollment in order to be eligible to participate in AmeriCorps?
Yes, an individual must be a U.S. citizen, U.S. national, or lawful permanent resident alien at the time of enrollment in order to become an AmeriCorps member. It is not sufficient that the individual's application for citizenship status is pending at the time of enrollment. If a member's lawful permanent resident alien status expires during the member's term of service, you must obtain proof of renewal from the member.

B. 7. Is a Certificate of Indian Blood sufficient to establish citizenship for the purpose of eligibility to serve as an AmeriCorps member?
No. A Certificate of Indian Blood is not sufficient to establish U.S. citizenship for the purpose of eligibility to serve as an AmeriCorps member.

B. 8. Is it allowable to use an expired U.S. passport as one of the eligibility documents checked in member's files?
Yes. Consistent with policy adopted by the Department of Homeland Security, Office of Citizenship and Immigration Services, a U.S. passport establishing citizenship status may be expired or unexpired.
B. 9. Does a hospital birth certificate suffice for acceptable eligibility documentation or does it have to be a state vital records birth certificate?
When the regulations refer to a birth certificate they refer to a legal document certified by and registered with a State's office of vital statistics (often through local vital statistic branches). Although the official document that states the child's name, place of birth, parents' names, and so forth is often filled in at the hospital, it should not be confused with documents distributed by some hospitals that have no legal significance.

B. 10. May an AmeriCorps grantee use AmeriCorps grant funds to pay for copies of birth certificates for potential members?
Yes. Because the eligibility documentation requirements to be an AmeriCorps member arise from the program requirements, the cost is allocable and typically would be deemed necessary, reasonable, and allowable especially if members are low-income and purchasing a copy of a birth certificate is a barrier to participation.

B. 11. How does a grantee determine and document educational attainment eligibility for membership in AmeriCorps?
Programs may accept a self-certification from the potential member as proof of high school graduation. Applicants do not have to produce a high school diploma or an equivalency certificate nor are programs required to retain a copy of the high school diploma or other documents confirming education level, such as an official transcript. However, a self-certification must include the person's signature, under penalty of law, specifically certifying that he or she has completed high school or its equivalent or will obtain a high school diploma prior to using the education award. 6

B. 12. Are members required to acquire a high school diploma or equivalent by the time they want to use the education award or by the time they finish their term of service?
Members are required to acquire a high school diploma or equivalent by the time they want to use their education award. However, some programs include achieving high school equivalency as a purpose of the program, and include GED classes during the program year. For those programs, successful completion of a term of service may include completion of work resulting in a high school diploma or equivalent.

B. 13. May a 16-year-old serve with a summer AmeriCorps program between his junior and senior years in high school?
No. The National and Community Service Act require that an AmeriCorps member be 17 years old when the term of service begins. The statute provides an exception for 16-year-olds if the 16 year old is an out-of-school youth and serving in an AmeriCorps youth corps program. An out-of-school youth is a youth who has dropped out of high-school. The definition does not include someone on summer break who is still enrolled in high school.
Reference: 42 U.S.C. 12591; 42 U.S.C. 12511(16); 45 CFR. § 2510.20; 45 CFR. § 2522.200(a)

B. 14. The AmeriCorps grant provisions state that in order for an individual who cannot meet the educational attainment requirements to serve as an AmeriCorps member, he or she must be "determined through an independent assessment conducted by the Program to be incapable of obtaining a high school diploma or its equivalent." How is this independent assessment conducted?
It is up to the sub-grantee of a state commission or the National Direct parent organization to identify the independent expert who will make the assessment. The expert(s) conducting the assessment must have legitimate expertise to make a reliable and independent determination of why an individual cannot get a high school diploma or a GED. Examples of such individuals include education specialists, psychologists, and doctors. The expert's independent assessment must identify valid reason(s), such as a learning disability, that explains why the individual cannot obtain a high school diploma or GED.

B. 15. How can an AmeriCorps program document that an applicant satisfies the member eligibility requirements related to educational attainment if the applicant has been homeschooled?
The AmeriCorps regulations (45 CFR § 2522.200) state that self-certification of high school diploma or its equivalent is sufficient. The program need not require any further documentation as long as the member certifies under penalty of law that he or she has a high school diploma or its equivalent, or agrees to obtain their high school diploma before using the education award.

B. 16. If an applicant for a position as an AmeriCorps member was adjudicated or held responsible as a juvenile offender of a criminal offense under a state law, but the state expunged the juvenile's record so that it was as if it never happened, can the applicant mark "No" on an application which asks if the applicant has ever been adjudicated or held responsible as a juvenile offender of any criminal offense by a civilian court or by authorities?
If under state law, the expungement of the record means that it's as if the offense never happened, and the applicant could under state law answer "No," then the applicant may answer "No" on the AmeriCorps application.

B. 17. May an individual convicted of murder serve as an AmeriCorps member?
No. The Serve America Act amends the NCSA to prohibit an individual convicted of first-degree murder from serving as an AmeriCorps member or employment by a grant-funded program.

B. 18. May an AmeriCorps program choose only to enroll as members individuals with disabilities?
This is not a viable program design, as it would entail asking questions in the member selection process to determine whether or not applicants have a disability. Such questions are not permitted.
Programs are allowed to ask all applicants what, if any, experience they have had serving or working with those with disabilities, and/or what, if any, training or experience they have in identifying and planning for the needs of the disabled or elderly. Even if the program uses these kinds of questions, they may find equally or better-qualified applicants who don't necessarily have or disclose a disability. A program may also focus their recruiting on organizations that serve those with disabilities, state that the program will be working with a specific population, and show persons with disabilities in their outreach materials.
Reference: 2003 Disability Inclusion Handbook

B. 19. If an applicant for an AmeriCorps position lies on the application and the program does not select him or her on that basis, what can the program do to notify other programs about this applicant?

No formal mechanism exists for a program to inform other programs about this potential applicant. If the program believes the applicant committed fraud, the program may refer the matter to the Corporation's Office of Inspector General by calling the IG Hotline (800) 452-8210 or e-mailing hotline@cncsoig.gov.

Section 13: CFR 2540 – Subpart B Requirements Directly Affecting the Selection and Treatment of Participants:

- **Criminal History Checks**
- **Alternative Search Procedures**
- **Anti-discrimination**
- **Family and Medical Leave Act**
- **Grievance Procedures**

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ND State Commission Introductory Comments and Guidance:

In addition to the basic eligibility criteria, an applicant (member candidate) may become ineligible to serve in a covered position (a covered position is a position in which the AmeriCorps member can receive an education award and/or a living allowance) based upon subsequent adverse results of a criminal history check. Similar to participant eligibility criteria, the criminal history check process is also a very important user guide topic. Sub-grantees must carefully follow the regulations and provisions to ensure that each member is eligible to serve, and if applicable, receive a living allowance. Premature approval to serve and/or disburse living allowances can have serious financial repercussions, which include the disallowance of service hours and disbursed living allowances, accumulated during periods in which a member's criminal history check was not properly conducted and/or completed. Additionally, while criminal history checks from the state or FBI are pending, the member must be in physical presence (accompanied) of an assigned authorized representative who has been previously cleared for such access to vulnerable populations.

The assigned authorized representative must sign the member's timesheet and/or timesheets on a weekly basis certifying that they were in physical presence during specific service times. Each session in which the member was accompanied must be identified on the timesheet(s).

It is good practice to make sure all of your primary eligibility documentation and criminal history checks are date stamped and are corroborated with a subsequent official project letter informing your members of their eligibility and official start date. A date stamp will verify the proper receipt of documentation in advance of a final determination of eligibility.

When selected members' state and FBI criminal history checks are in a pending status and the member will be in a covered position serving vulnerable populations, it is recommended to also include in the official eligibility service letter, special accompaniment and physical presence requirements/instructions. A notice of official start dates and specific instructions regarding services and accompaniment requirements will demonstrate to an auditor or site visitor that the project has strong internal controls regarding member service hours and accompaniment requirements. Official start dates and accompaniment instructions will also minimize unintentional service activity by an AmeriCorps member.

Code of Federal Regulations Applicable to Section 13

CFR 2540 - Subpart B—Requirements Directly Affecting the Selection and Treatment of Participants

§2540.200 What does "you" mean in this section?
§2540.201 To whom must I apply the National Service Criminal History Check eligibility criteria?
§2540.202 What eligibility criteria must I apply to a covered position in connection with the National Service Criminal History Check?
§2540.203 What search components of the National Service Criminal History Check must I satisfy to determine an individual's eligibility to serve in a covered position?
§2540.204 When must I conduct a National Service Criminal History Check on an individual in a covered position?
§2540.205 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?
§2540.206 What documentation must I maintain regarding a National Service Criminal History Check for a covered position?
§2540.207 When may I follow an alternative search procedure or be excepted from a requirement in conducting a National Service Criminal History Check for a covered position?
§2540.208 Under what circumstances may participants be engaged?
§2540.210 What provisions exist to ensure that Corporation-supported programs do not discriminate in the selection of participants and staff?
§2540.215 What should a program participant, staff members, or beneficiary do if the individual believes he or she has been subject to illegal discrimination?
§2540.220 Under what circumstances and subject to what conditions are participants in Corporation-assisted programs eligible for family and medical leave?
§2540.230 What grievance procedures must recipients of Corporation assistance establish?

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§2540.200 What does "you" mean in this section?
As used in this section, "you" means a Corporation grantee or other entity subject to Corporation grant provisions. Unless the context otherwise requires, this includes, but is not limited to, recipients of federal financial assistance under grant programs defined in §2510.20 of this chapter as well as projects under the Senior Companion Program, the Foster Grandparent Program, and RSVP.
[77 FR 60932, Oct. 5, 2012]

§2540.201 To whom must I apply the National Service Criminal History Check eligibility criteria?
You must apply the National Service Criminal History Check eligibility criteria to individuals serving in covered positions. A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary.
[77 FR 60932, Oct. 5, 2012]

§2540.202 What eligibility criteria must I apply to a covered position in connection with the National Service Criminal History Check?
In addition to the eligibility criteria you establish, an individual shall be ineligible to serve in a covered position if the individual—
(a) Refuses to consent to a criminal history check described in §2540.203 of this chapter;
(b) Makes a false statement in connection with a criminal history check described in §2540.203 of this chapter;
(c) Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or

(d) Has been convicted of murder, as defined in 18 U.S.C. 1111.
[77 FR 60932, Oct. 5, 2012]

§2540.203 What search components of the National Service Criminal History Check must I satisfy to determine an individual's eligibility to serve in a covered position?

(a) *Search procedure for individuals in covered positions who do not have recurring access to vulnerable populations.* Unless the Corporation approves an alternative search procedure under §2540.207 of this chapter, to determine an individual's eligibility to serve in a covered position, you must conduct and document a National Service Criminal History Check that consists of the following components:

(1) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW), and

(2) Either:

(i) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will be primarily serving or working *and* for the state in which the individual resides at the time of application; or

(ii) Submission of fingerprints through a state central record repository for a fingerprint-based Federal Bureau of Investigation (FBI) national criminal history background check.

ND State Commission Clarification and Guidance

State Commission Policy 1-45-13 (1)

Requires sub-grantees to conduct a NSOPW check on prospective members prior to the member starting their term of service

(b) Search procedure for *individuals in covered positions who have recurring access to vulnerable populations.*

(1) This rule applies to individuals who:

(i) Begin working for, or who start service with, you on or after April 21, 2011;

(ii) Will be 18 years old or older at any time during their term of service; and

(iii) Serve in a covered position that will involve recurring access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities.

(2) Unless the Corporation approves an alternative search procedure or an exception under §2540.207 of this chapter, to determine the eligibility of an individual described in paragraph (b)(1) of this section you must conduct and document a National Service Criminal History Check that consists of the following components:

(i) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW);

(ii) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will be primarily serving or working *and* for the state in which the individual resides at the time of application; and

(iii) Submission of fingerprints through a state central record repository for a fingerprint-based FBI national criminal history background check.
[77 FR 60932, Oct. 5, 2012]

§2540.204 When must I conduct a National Service Criminal History Check on an individual in a covered position?

(a) *Timing of the National Service Criminal History Check Components.*

(1) You must conduct and review the results of the nationwide NSOPW check required under §2540.203 before an individual in a covered position begins work or starts service.

(2) You must initiate state registry or FBI criminal history checks required under §2540.203 before an individual in a covered position begins work or starts service. You may permit an individual in a covered position to begin work or start service pending the receipt of results from state registry or FBI criminal

history checks as long as the individual is not permitted access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities, without being in the physical presence of an appropriate individual, as described in §2540.205(g) of this chapter.
(b) *Consecutive terms.* If an individual serves consecutive terms of service in a covered position and does not have a break in service that exceeds 120 days, then no additional National Service Criminal History Check is required, as long as the original check is a compliant check for the covered position in which the individual will be serving or working following the break in service. If your program or project is designed with breaks in service over 120 days, but less than 180 days between consecutive terms, you may request approval for a break in service of up to 180 days before a new National Service Criminal History Check is required. Your request must describe the overall program design, explain why the longer period is reasonable, and demonstrate that you have established adequate risk management controls for the extended break in service.
[77 FR 60932, Oct. 5, 2012]

§2540.205 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?
You are responsible for following these procedures:
(a) Verify the individual's identity by examining the individual's government-issued photo identification card, such as a driver's license;
(b) Obtain prior, written authorization from the individual for the State registry check, for the FBI criminal history check, and for the appropriate sharing of the results of the checks within the program. Prior written authorization from the individual is not required to conduct the nationwide NSOPW check;
(c) Document the individual's understanding that selection into the program is contingent upon the organization's review of the individual's National Service Criminal History Check component results, if any;
(d) Ensure that screening practices comply with federal civil rights laws, including Titles VI and VII of the Civil Rights Act of 1964 (and the Corporation's implementing regulations under Title VI);
(e) Provide a reasonable opportunity for the individual to review and challenge the factual accuracy of a result before action is taken to exclude the individual from the position;
(f) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant; and
(g) Ensure that an individual, for whom the results of a required state or FBI criminal history registry check are pending, is not permitted to have access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities without being in the physical presence of:
(1) Your authorized representative who has previously been cleared for such access;
(2) A family member or legal guardian of the vulnerable individual; or
(3) An individual authorized, because of his or her profession, to have recurring access to the vulnerable individual, such as an education or medical professional.
(h) Unless specifically approved by the Corporation, you may not charge an individual for the cost of any component of a National Service Criminal History Check.
[77 FR 60932, Oct. 5, 2012]

§2540.206 What documentation must I maintain regarding a National Service Criminal History Check for a covered position?

You must:

(a) Document in writing that you verified the identity of the individual in a covered position by examining the individual's government-issued photo identification card, and that you conducted the required checks for the covered position; and

(b) Maintain the results, or a results summary issued by a State or Federal government body, of the NSOPW check and the other components of each National Service Criminal History Check, unless precluded from doing so by State or Federal law or regulation. You must also document in writing that an authorized grantee representative considered the results of the National Service Criminal History Check in selecting the individual.

[77 FR 60933, Oct. 5, 2012]

§2540.207 When may I follow an alternative search procedure or be excepted from a requirement in conducting a National Service Criminal History Check for a covered position?

(a) *Alternative search procedure.*

(1) If you submit a written request to the Corporation's Office of Grants Management, the Corporation will consider approving an alternative search procedure:

(i) If you demonstrate that you are prohibited or otherwise precluded under state law from complying with a Corporation requirement relating to the National Service Criminal History Check, or

(ii) If you can obtain substantially equivalent or better information through an alternative search procedure.

(2) The Office of Grants Management will review the alternative search procedure to ensure that it:

(i) Verifies the identity of the individual; and

(ii) Includes a search of an alternative criminal database that is sufficient to identify the existence or absence of criminal offenses.

> When requesting an Alternative Search Procedure (ASP) in relation to a vendor that provides criminal background checks, the AmeriCorps program should make sure the vendor satisfies all of 2540.207. Also, the AmeriCorps program must verify that their chosen vendor uses the repositories approved by the Corporation. See list of approved repositories. https://www.nationalserviceresources.gov/files/table-of-designated-state-repositories-and-alternates-3-26-14_3.pdf

(b) *Exceptions to Criminal History Check requirements for individuals with recurring access to vulnerable populations.*

(1) *Exception that does not require prior Corporation approval—Episodic Access.* (i) For the purposes of this section, an individual's access to a vulnerable population is considered to be episodic in nature if the service is not a regular, scheduled, and anticipated component of the individual's position description.

(ii) You are not required to conduct the fingerprint-based FBI criminal history check on individuals in covered positions with recurring access to vulnerable populations, as described in §2540.203 of this chapter, when the individual's access to a vulnerable population is episodic in nature or for a 1-day period.

(iii) No prior approval is required from the Corporation for you to apply this exception. You must make and document a determination that the individual's access to vulnerable populations is episodic, as defined by paragraphs (b)(1)(i) and (ii) of this section.

(2) *Exceptions that require prior approval of the Corporation.* You are not required to conduct the fingerprint-based FBI criminal history check on individuals in covered positions with recurring access to vulnerable populations, as described in §2540.203 of this chapter, if you demonstrate and the Corporation determines in writing that:

(i) Complying with §2540.203(b)(2)(iii) of this chapter is cost-prohibitive;

(ii) You are not authorized, or are otherwise unable, under state or federal law, to access the national criminal history background check system of the FBI; or
(iii) That you are exempt from the requirement in §2540.203(b)(2)(iii) of this chapter for good cause.
[77 FR 60933, Oct. 5, 2012]

§2540.208 Under what circumstances may participants be engaged?
A State may not engage a participant to serve in any program that receives Corporation assistance unless and until amounts have been appropriated under section 501 of the Act (42 U.S.C. 12681) for the provision of AmeriCorps educational awards and for the payment of other necessary expenses and costs associated with such participant.
[59 FR 13808, Mar. 23, 1994. Redesignated at 72 FR 48582, Aug. 24, 2007]

§2540.210 What provisions exist to ensure that Corporation-supported programs do not discriminate in the selection of participants and staff?
(a) An individual with responsibility for the operation of a project that receives Corporation assistance must not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.
(b) Any Corporation assistance constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and constitutes Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).
(c) An individual with responsibility for the operation of a project that receives Corporation assistance may not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with Corporation funds. This provision does not apply to the employment (with Corporation assistance) of any staff member of a Corporation-supported project who was employed with the organization operating the project on the date the Corporation grant was awarded.
(d) Grantees must notify all program participants, staff, applicants, and beneficiaries of:
(1) Their rights under applicable federal nondiscrimination laws, including relevant provisions of the national service legislation and implementing regulations; and
(2) The procedure for filing a discrimination complaint with the Corporation's Office of Civil Rights and Inclusiveness.
[59 FR 13808, Mar. 23, 1994, as amended at 73 FR 53760, Sept. 17, 2008]

§2540.215 What should a program participant, staff members, or beneficiary do if the individual believes he or she has been subject to illegal discrimination?
A program participant, staff member, or beneficiary who believes that he or she has been subject to illegal discrimination should contact the Corporation's Office of Civil Rights and Inclusiveness, which offers an impartial discrimination complaint resolution process. Participation in a discrimination complaint resolution process is protected activity; a grantee is prohibited from retaliating against an individual for making a complaint or participating in any manner in an investigation, proceeding, or hearing.
[73 FR 53760, Sept. 17, 2008]

§2540.220 Under what circumstances and subject to what conditions are participants in Corporation-assisted programs eligible for family and medical leave?
(a) *Participants in State, local, or private nonprofits programs.* A participant in a State, local, or private nonprofit program receiving support from the Corporation is considered an eligible employee of the

program's project sponsor under the Family and Medical Leave Act of 1993 (29 CFR part 825) if—
(1) The participant has served for at least 12 months and 1,250 hours during the year preceding the start of the leave; and
(2) The program's project sponsors engages in commerce or any industry or activity affecting commerce, and employs at least 50 employees for each working day during 20 or more calendar workweeks in the current or preceding calendar year.
(b) *Participants in Federal programs.* Participants in Federal programs operated by the Corporation or by another Federal agency will be considered Federal employees for the purposes of the Family and Medical Leave Act if the participants have completed 12 months of service and the project sponsor is an employing agency as defined in 5 U.S.C 6381 *et seq.;* such participants therefore will be eligible for the same family and medical leave benefits afforded to such Federal employees.
(c) *General terms and conditions.* Participants that qualify as eligible employees under paragraphs (a) or (b) of this section are entitled to take up to 12 weeks of unpaid leave during a 12 month period for any of the following reasons (in the cases of both paragraphs (c)(1) and (2) of this section the entitlement to leave expires 12 months after the birth or placement of such child):
(1) The birth of a child to a participant;
(2) The placement of a child with a participant for adoption or foster care;
(3) The serious illness of a participant's spouse, child or parent; or
(4) A participant's serious health condition that makes that participant unable to perform his or her essential service duties (a serious health condition is an illness or condition that requires either inpatient care or continuing treatment by a health care provider).
(d) *Intermittent leave or reduced service.* The program, serving as the project sponsor, may allow a participant to take intermittent leave or reduce his or her service hours due to the birth of or placement of a child for adoption or foster care. The participant may also take leave to care for a seriously ill immediate family member or may take leave due to his or her own serious illness whenever it is medically necessary.
(e) *Alternate placement.* If a participant requests intermittent leave or a reduced service hours due to a serious illness or a family member's sickness, and the need for leave is foreseeable based on planned medical treatment, the program, or project sponsor may temporarily transfer the participant to an alternative service position if the participant: (1) Is qualified for the position; and
(2) Receives the same benefits such as stipend or living allowance and the position better accommodates the participants recurring periods of leave.
(f) *Certification of cause.* A program, or project sponsor may require that the participant support a leave request with a certification from the health care provider of the participant or the participant's family member. If a program sponsor requests a certification, the participant must provide it in a timely manner.
(g) *Continuance of coverage.*
(1) If a State, local or private program provides for health insurance for the full-time participant, the sponsor must continue to provide comparable health coverage at the same level and conditions that coverage would have been provided for the duration of the participant's leave.
(2) If the Federal program provides health insurance coverage for the full-time participant, the sponsor must also continue to provide the same health care coverage for the duration of the participant's leave.
(h) *Failure to return.* If the participant fails to return to the program at the end of leave for any reason other than continuation, recurrence or onset of a serious health condition or other circumstances beyond his or her control, the program may recover the premium that he or she paid during any period of unpaid leave.
(i) *Applicability to term of service.* Any absence, due to family and medical leave, will not be counted towards the participant's term of service.

§2540.230 What grievance procedures must recipients of Corporation assistance establish?
State and local applicants that receive assistance from the Corporation must establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance from the Corporation. A grievance procedure may include dispute resolution programs such as mediation, facilitation, assisted negotiation and neutral evaluation. If the grievance alleges fraud or criminal activity, it must immediately be brought to the attention of the Corporation's inspector general.
(a) *Alternative dispute resolution.*
(1) The aggrieved party may seek resolution through alternative means of dispute resolution such as mediation or facilitation. Dispute resolution proceedings must be initiated within 45 calendar days from the date 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 forego filing a grievance in the matter under consideration.
(2) If mediation, facilitation, or other dispute resolution processes are selected, the process must be aided by a neutral party who, with respect to an 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 dispute resolution agreement, the proceeding must be confidential.
(b) *Grievance procedure for unresolved complaints.* If the matter is not resolved within 30 calendar days from the date the informal dispute resolution process began, the neutral party must again inform the aggrieving party of his or her right to file a formal grievance. In the event an aggrieving party files a grievance, the neutral may not participate in the formal complaint process. In addition, no communication or proceedings of the informal dispute resolution process 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.
(c) *Time limitations.* 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 grievance must be made no later than 60 calendar days after the filing of the grievance.
(d) *Arbitration—*
(1) *Arbitrator—*
(i) *Joint selection by parties.* If there is an adverse decision against the party who filed the grievance, or 60 calendar days after the filing of a grievance no decision has been reached, the filing party may submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.
(ii) *Appointment by Corporation.* If the parties cannot agree on an arbitrator within 15 calendar days after receiving a request from one of the grievance parties, the Corporations Chief Executive Officer will appoint an arbitrator from a list of qualified arbitrators.
(2) *Time Limits—*
(i) *Proceedings.* 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.
(ii) *Decision.* A decision must be made by the arbitrator no later than 30 calendar days after the date the arbitration proceeding begins.
(3) *The cost.* 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 a party to the grievance 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 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.
(f) *Remedies.* 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; and
(2) In grievance cases where there is a violation of nonduplication or nondisplacement requirements and the employer of the displaced employee is the recipient of Corporation assistance—
(i) Reinstatement of the employee to the position he or she held prior to the displacement;
(ii) Payment of lost wages and benefits;
(iii) Re-establishment of other relevant terms, conditions and privileges of employment; and
(iv) Any other equitable relief that is necessary to correct any violation of the nonduplication or nondisplacement requirements or to make the displaced employee whole.
(g) *Suspension or termination of assistance.* The Corporation may suspend or terminate payments for assistance under this chapter.
(h) *Effect of noncompliance with arbitration.* 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.

Corporation Grant Provisions Applicable to Section 13 (Effective June 2014)

National Service Criminal History Check: The specific requirements of the National Service Criminal History Check, including the timing and recordkeeping requirements, are specified at 45 CFR §§ 2540.200 - .207. You must retain a record of the NSOPW search and associated results either by printing the screen(s) or by some other method that retains paper or digital images of the NSOPW checks, inclusive of the date record for when the search was performed. Inability to demonstrate that you conducted an NSOPW or the required criminal history check, as specified in the regulations, may result in sanctions, including disallowance of costs.

Frequently Asked Questions Applicable to Section 13

See the various Corporation links under National Service Criminal History Check Resources:
Criminal History Check Resources