RESTRICTIONS ON BALLOT AND PARTISAN POLITICAL ACTIVITY

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COMPILATION OF RESTRICTIONS ON BALLOT AND PARTISAN POLITICAL ACTIVITY BY CNCS GRANTEES AND AMERICORPS VISTA MEMBERS

When organizations receive grants or cooperative agreements from, or enter into VISTA sponsorship agreements with, the Corporation for National and Community Service (CNCS), they also create certain federal restrictions on partisan political activity that apply to certain individuals, as well as the organization.

As a general matter, these partisan activity restrictions preclude certain individuals from

- using official authority or influence to interfere with or affect the results of an election or
- directly or indirectly coercing contributions from subordinates in support of a political candidate.

In addition, organizations are generally prohibited from spending grant funds

- to influence the outcome of any election to Federal, State, or local public office or
- voter registration activities, or transporting people to polling places.

To help organizations understand and comply with these restrictions, CNCS has compiled this list of statutory and regulatory references which contain the limitations and restrictions on partisan political activity. This list is merely a reference tool to support compliance; grantees may not rely on this as a definitive or complete recitation of all the applicable legal principles.

The Hatch Act (for Employees of State and Local Governments that receive CNCS grants)

The Hatch Act, a federal law passed in 1939, limits certain political activities of state and local government employees who work in connection with federally funded programs. The law’s purposes include ensuring that federal programs are administered in a nonpartisan fashion. The Hatch Act applies to state and local government employees who, as a normal and foreseeable incident of their principal employment, perform duties in connection with an activity financed in whole or in part by federal funds.1 Under the Hatch Act, covered state and local employees cannot:

- use official authority or influence to interfere with or affect the results of an election or nomination. or
- directly or indirectly coerce, attempt to coerce, command, or advise a state, or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

These prohibitions continue to apply while the employees are on annual leave, sick leave, administrative leave, furlough, or any other paid or unpaid leave. In addition, a covered state or local employee whose salaries are paid for entirely by federal funds are prohibited from running for partisan office.

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1 However, the Hatch Act does not apply to individuals who are principally employed by educational or research institutions, establishments, agencies, or systems that are supported in whole or in part by a state or local agency (e.g., teacher, administrator, custodian, etc.).
Uniform Administrative Requirements

Provisions in the Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards (2 CFR Part 200, also provide relevant restrictions on partisan political activity by nonprofit organizations and Institutes of Higher Education. These restrictions include:

- Attempts to influence the outcomes of any Federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;²

- Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections in the United States;³

CNCS Specific Requirements

Section 174(b) of the National and Community Service Act (NCSA) (42 U.S.C. § 12634(b)) provides that grants awarded under the NCSA shall not be used by program participants and program staff to finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

In addition, section 132A of the NCSA (42 U.S.C. § 12584a), in conjunction with CNCS’s regulations at 45 CFR 2520.65, provide that AmeriCorps Members and AmeriCorps program staff under AmeriCorps State and National grants⁴ may not be used for—

- engaging in partisan political activities, or other activities designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office, or

- 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.

Congress also placed restrictions on partisan political activity of recipients of federal funding under section 403 of the Domestic Volunteer Service Act of 1973 (DVSA) (42 U.S.C. § 5043). Under these restrictions no organization receiving DVSA assistance from CNCS (AmeriCorps VISTA sponsors or Senior Corps grantees) may use that assistance (including funded services or personnel) that results in identifying the organization with—

- any partisan or nonpartisan political activity associated with a candidate, or a contending faction or group, in an election for public or party office

- any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election

- any voter registration activity⁵, or

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² 2 C.F.R. § 200.450(c)(1)(i).


⁴ These restrictions apply to AmeriCorps members and program staff while charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by CNCS.

⁵ VISTA sponsors can make voter registration applications and nonpartisan voter registration information available to the public on the sponsors’ premises. But VISTA sponsor staff members may not indicate a preference with respect to any candidate, political party, or election issue; or seek to influence the political or party affiliation, or voting decision, of any individual. 42 U.S.C. 5043(b)(1)(C) and (b)(2). However, by regulation, Senior Corps grantees may not engage any voter registration activity, including the dissemination of official voter registration materials. 45 CFR 1226.8(b).
• any activity for the purpose of influencing the passage or defeat of ... proposals by initiative petition.6

CNCS has, by regulation, (45 CFR 1226.8) stated that a Senior Corps Volunteers may not engage in electoral activity, including:

• any activity in support of, or in opposition to a candidate for election to public office in a partisan or nonpartisan election
• participating in the circulation of petitions, or the gathering of signatures on nominating petitions or similar documents for candidates for public office
• raising, soliciting, or collecting funds for a candidate for public office
• preparing, distributing, or providing funds for campaign material for candidates, including leaflets, pamphlets, brochures, and material designed for the print or electronic media
• organizing political meetings or forums
• canvassing voters on behalf of a candidate for public office, and
• raising, soliciting, or collecting funds for groups that engage in any of these activities
• circulating petitions, gather signatures on petitions, or urge or organize others to do so, which seek to have measures placed on the ballot at a general or special election, and
• any activities in regard to the passage or defeat of any measure on the ballot in a general or special election.

A Senior Corps Volunteer also may not engage in any voter registration activity, including:

• providing transportation of individuals to voter registration sites
• providing assistance to individuals in the process of registering to vote, including determinations of eligibility
• the dissemination of official voter registration materials, or
• raising, soliciting or collecting funds to support those activities.

Finally, a Senior Corps Volunteer may not engage in any activity to provide voters or prospective voters with transportation to the polls, or collect, raise, or solicit funds to support such activity, including securing vehicles for such activity.

In addition to the prohibitions in section 403 of the DVSA, under section 415(b) of the DVSA (42 U.S.C. § 5055(b)), AmeriCorps VISTA members are treated as federal employees under the Hatch Act (regardless of whether they are full-or part-time). CNCS has issued regulations covering the restrictions and prohibitions on political activities for VISTA members.7 Under these authorities, VISTA members may not engage in the following activities at any time:

• using their official authority or influence to interfere with or affect the result of an election.8 For example:
  o using their official titles or positions while engaged in political activity.
  o inviting subordinate employees to political events or otherwise suggest to subordinates that they attend political events or undertake any partisan political activity.
• soliciting, accepting or receiving a donation or contribution for a partisan political party, candidate for partisan political office, or partisan political group.9 For example:
  o hosting a political fundraiser.
  o collecting contributions or sell tickets to political fundraising functions.

6 Note that 42 U.S.C. 5043(c)(2) creates an exception that allows AmeriCorps VISTA sponsors and Senior Corps grantees to seek to influence “proposals by initiative petition” in connection with an authorization or appropriations measure directly affecting the operation of the programs. However, such petition or ballot initiatives directly affecting funding of CNCS programs are rare.

7 45 CFR Part 2556, Subpart H.

8 See 45 CFR 2556.710(a)

9 See 45 CFR 2556.740(c)(1)
being a candidate for public office in a partisan political election.\textsuperscript{10} 
knowingly soliciting or discouraging the participation in any political activity of anyone who has business 
pending before their office.\textsuperscript{11}

In addition, VISTA members may engage in certain political activity – i.e., activity directed at the success or failure of a 
political party, candidate for partisan political office, or partisan political group –For example VISTA member may:

\begin{itemize}
\item distribute campaign materials or items 
\item display campaign materials or items 
\item perform campaign related chores 
\item wear or display partisan political buttons, T-shirts, signs, or other items 
\item make political contributions to a partisan political party, candidate for partisan political office, or partisan 
political group 
\item post a comment to a blog or a social media site that advocates for or against a partisan political party, candidate 
for partisan political office, or partisan political group, or 
\item use any e-mail account or social media to distribute, send, or forward content that advocates for or against a 
partisan political party, candidate for partisan political office, or partisan political group.
\end{itemize}

HOWEVER, VISTA members MAY NOT participate in any of these activities while they are either on duty, in any federal 
room or building, while wearing a uniform or official insignia, or using any federally owned or leased vehicle. In 
addition, any such activity cannot:

\begin{itemize}
\item interfere with the performance of, or availability to perform, his or her assigned VISTA project duties 
\item interfere with his or her provision of service in the VISTA program 
\item not be conducted in a manner involving the use of VISTA assistance, resources or fund 
\item result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program 
\item be conducted during scheduled VISTA service hours; and 
\item interfere with the full-time commitment to remain available for VISTA service without regard to regular working 
hours, at all times during periods of service, except for authorized periods of leave.
\end{itemize}

\textsuperscript{10} See 45 CFR 2556.735

\textsuperscript{11} See 45 CFR 2556.745