

RESTRICTIONS ON BALLOT AND PARTISAN POLITICAL ACTIVITY

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FREQUENTLY ASKED QUESTIONS REGARDING RESTRICTIONS ON PARTISAN POLITICAL ACTIVITY

These frequently asked questions and answers (FAQs) are intended to provide guidance to organizations that receive assistance from CNCS on how to provide appropriate information about the impact of CNCS's programs while avoiding impermissible partisan political activity. These FAQs are meant to accompany the Compilation of Restrictions on Ballot and Partisan Political Activity by CNCS Grantees and AmeriCorps VISTA Members. Please note that this document doesn't discuss the illegality of using federal funds for lobbying.

QUESTIONS APPLICABLE TO ALL CNCS GRANTEES

What is "partisan political activity" in the context of these restrictions?

The precise activity that is restricted can vary according to who you are, and what CNCS programs you are involved in. In general, however, a partisan political activity is one that is either 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 is associated with a candidate, or a contending faction or group, in an election for public or party office.¹

May a CNCS-funded program endorse or sponsor an event, such as a debate between candidates, which itself is not partisan, but will likely include advocacy for or against political parties, platforms, candidates, proposed legislation, or elected officials?

CNCS-funded programs should avoid any connection with such political events, and individuals enrolled in a national service program who attend such event should avoid any appearance that they are doing so as part of the national service program.

An elected official who is running for re-election wants to have a campaign publicity event at our service site. Is this type of site visit permitted?

No. Any event that can be perceived as partisan in nature should not be permitted at service sites.

What if a candidate for public office tells me that he or she wants to arrange a visit, or to invite AmeriCorps members or Senior Corps volunteers to an event, in order to announce as part of their campaign that they support CNCS-funded programs?

You should advise the candidate of your organization's need to ensure that it does not engage in prohibited partisan political activities, and that such a staged announcement involving AmeriCorps members or Senior Corps volunteers may create the impression that your program is attempting to influence the election.

Is an organization receiving funds from CNCS prevented from taking part in the political process?

¹ 42 U.S.C. §§ 5043(b) and 12584a

No, but an organization that receives CNCS funds may only sponsor or endorse political events if it does so without using CNCS support, and if it avoids the appearance that it is doing so in its capacity as a CNCS grantee or that the event has any connection to the CNCS-funded project.

We're hosting a conference call related to our CNCS grant that's designed to get more organizations involved in service. During the call, a participant asks how to get volunteers involved in a partisan political effort. How should we respond?

You should remind the participants of the purpose of the call and that it would be inappropriate to use the call to discuss partisan political activity. You may suggest that such conversations be handled off CNCS time, and not charged to federal or matching funds.

If a particular activity is not specifically disallowed under the OMB Cost Principles (2 C.F.R. Part 200, Subpart E) or under grant terms, does that mean the cost is allowed?

Not necessarily. While OMB's Cost Principles (found in [2 C.F.R. Part 200](#), Subpart E) set both general and certain specific criteria for when costs are allowable, they do not authorize any specific cost or expenditure; they merely limit the allowability of types of costs or expenditures. The burden is on the grantee to demonstrate that any particular cost is allowable according to the factors listed at 2 C.F.R. §200.403. This means that the grantee must be able to show that the cost is consistent with the approved budget and properly chargeable to the grant as reasonable and necessary—not merely that it is not on the list of disallowed costs. Allowability is ultimately a determination made by CNCS.

I work for a state or local government agency that receives CNCS grant funds. What are the restrictions on my partisan political activity?

If, as a normal and foreseeable incident of your employment you perform duties in connection with an activity financed in whole or in part by federal funds, you are prohibited from using *your official authority or influence* to interfere with or affect the results of an election or nomination. You also cannot directly or indirectly coerce, attempt to coerce, command, or advise *any other 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 restrictions apply to you whether you are on duty, on annual leave, sick leave, administrative leave, furlough, or any other paid or unpaid leave.

QUESTIONS APPLICABLE TO STATE SERVICE COMMISSIONERS

I am the Executive Director of my state's Commission on National and Community Service. Can I express my support of candidates who emphasize their engagement in issues related to national service or CNCS programs?

The OMB Cost Principles (2 CFR Part 200, Subpart E) do not explicitly prohibit state and local governments from charging costs associated with influencing the outcome of elections in the United States. However, all costs charged to CNCS grants must still be reasonable and necessary for the performance of your CNCS award, and be allocable to the award under OMB cost principles. As discussed above, the burden is on your organization to demonstrate that any particular cost is allowable according to the factors listed at 2 C.F.R. §200.403, and CNCS makes the ultimate determination. You should direct any specific question on this point to your CNCS program officer or grants officer.

However, keep in mind that as an Executive Director of a state commission, you will be subject to the Hatch Act restrictions on *using your official authority or influence* to interfere with or affect the results of an election or nomination. You also cannot directly or indirectly coerce, attempt to coerce, command, or advise *any other 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 restrictions apply to you whether you are on duty, on annual leave, sick leave, administrative leave, furlough, or any other paid or unpaid leave.

QUESTIONS APPLICABLE TO AMERICORPS MEMBERS AND SENIOR CORPS VOLUNTEERS

As an AmeriCorps member or Senior Corps Volunteer, am I barred from any partisan political activity whatsoever?

No. Individuals may exercise their First Amendment rights, including participating in the political process, on their own initiative, on their own time, and using non-CNCS funds and resources. But in doing so, it is very important to avoid even a perception that national and community service staff or participants are engaging in political activities in those capacities. For example, wearing AmeriCorps gear while participating in a political event may result in an allegation that the AmeriCorps program is supporting political activities, even if that is not the case.

When does “partisan political activity” occur in a meeting with candidates for office, and how can I make sure that it does not happen in a meeting involving AmeriCorps members or Senior Corps Volunteers?

“Partisan political activity” occurs during a meeting if someone undertakes activity directed at the success or failure of a political party, partisan political candidate, or partisan political group.

As a general rule, your organization cannot direct or arrange for an AmeriCorps member or Senior Corps volunteer to engage in partisan political activity even if such activity is done in the context of describing the importance and impact of service and even if the activity is not being charged to the grant. However, CNCS will not consider an AmeriCorps member or Senior Corps volunteer as having been used to for partisan political activity, if their factual presentations are sufficiently distinct—*such as being at separate times or locations*—from any associated partisan political activity that they are not a part of. The facts and circumstances of the presentations and the partisan political activities must allow a reasonable person to conclude that the factual presentations by the AmeriCorps members or Senior Corps volunteer were not solely or specifically intended to influence the outcome of an election or ballot initiative, and the AmeriCorps members and Senior Corps volunteers did not participate in any partisan political activity.

Are the restrictions on political activity under the Hatch Act applicable to me as an AmeriCorps member or Senior Corps volunteer? If so, what activity is permissible or impermissible under the Hatch Act?

Under 42 U.S.C. § 5055, AmeriCorps VISTA members are regarded as federal employees with regard to the Hatch Act, which imposes specific and unique restrictions on political activity for these members. The Hatch Act applies to VISTA members regardless of whether they are full- or part-time. VISTA members may only engage in partisan political activity in a personal capacity on personal time, which is when you are:

- off-duty (i.e., in a personal capacity, and after duty hours or in an approved leave status),
- outside of rooms and buildings used for official government activities,
- out of uniform and without CNCS badge, pins, or other insignia that identify one as a CNCS employee,
- not using a government vehicle, and
- not using any Federal resources (phones, email, copiers, printers, etc.).

Under these circumstances, **permissible** political activity of a VISTA member may include:

- taking an active part in managing or volunteering on a political campaign;
- registering to vote and voting as you choose, or
- assisting in voter registration drives;
- contributing money to partisan political campaigns, parties, or groups;
- attending political fundraisers (but no fundraising);
- attending and being active at political rallies and meetings;
- joining and being an active member of political clubs or parties;
- serving as an officer or member of a political party or other political group;
- campaigning for or against referendum questions, constitutional amendments, or municipal ordinances;
- canvassing for votes in support of or in opposition to a political candidate;
- addressing a convention, rally, caucus or gathering of a political party in support of or in opposition to a partisan candidate for public office;

- serving as a party or candidate challenger or poll watcher;
- distributing campaign literature in partisan elections; and
- circulating and signing nominating petitions.

Under the Hatch Act, the following activities are prohibited for all VISTA members at all times. Members may not:

- solicit, accept or receive a contribution for a partisan political party, candidate for partisan political office, or partisan political group² (e.g., one cannot host a fundraiser at a personal residence, can't be part of a host committee of a fundraising event, can't collect or sell tickets to political fundraisers, can't forward email fundraising solicitations to anyone, and can't solicit funds on social media sites);
- speak at a political fundraiser in an official capacity (if you choose to speak or play an active role at a political event in your personal capacity, you may wish check with OGC in advance; at the event, you may not fundraise);
- use your official authority or influence for the purpose of interfering with or affecting the result of an election (this includes using your title or position when participating in political activity or using your authority to coerce another person to participate in political activity);
- solicit or receive volunteer services from a subordinate for any political purpose;
- solicit or discourage the participation in any political activity of any person who has any official business (i.e., an application for any compensation, grant, contract, or ruling) pending before your office;
- solicit or discourage the participation in any political activity of any person who is the subject of, or a participant in, an ongoing audit, investigation or enforcement action being carried out by your office;
- intimidate, threaten, command, or coerce any federal employee to engage in or not engage in any political activity;
- be a candidate for public office in a partisan political election.

For more examples of permissible and impermissible activities under the Hatch Act, visit:

<https://osc.gov/pages/HatchAct-FAQs.aspx>.

While the Hatch Act is not applicable to Senior Corps and other, non-VISTA AmeriCorps members, a bar on partisan political activity under 42 U.S.C.A. § 12584a remains.

I want to post something to a social media site in support of a candidate for office. Is this permissible?

Yes, but subject to the following limitations for VISTA members under the Hatch Act. The Act does not prohibit federal employees from expressing their opinions concerning partisan political candidates and political parties. However, the Act prohibits them from engaging in "political activity," that is, activity directed at the success or failure of a political party, partisan political candidate, or partisan political group, while they are on duty or in a building occupied in the discharge of official duties by a federal officer or employee. Thus, VISTA members are prohibited from advocating for or against a political party, partisan political group, or candidate for partisan public office through a blog, Facebook, Twitter, or any other social media platform while they are on duty or in the federal workplace. However, doing so off duty and away from the federal workplace would not violate the Hatch Act.

The Hatch Act also prohibits VISTA members from using their official authority or influence to affect the result of an election. Therefore, although VISTA members may advocate for or against political parties, partisan political groups, or candidates for partisan public office while off duty and away from the federal workplace, they may not refer to their official titles or positions with the government while engaged in such efforts. Note, however, that the Office of Special Counsel (OSC) would not consider the inclusion of a VISTA member's official title or position on one's social media profile, without more, to be an improper use of his official authority to bolster the statements he posts.

² Union members may solicit, accept, or receive political donations or contributions in narrow circumstances. Please check with your union representative for more information.

Finally, VISTA members are prohibited from soliciting, accepting, or receiving political contributions at any time. Thus, at no time should they suggest or ask anyone to make contributions to a political party, partisan political candidate, or partisan political group. Further, they should not provide links to the contribution page of any of those entities' websites.

If I have my official title on my Facebook profile, may I also fill in the “political view” field?

Yes. Although the Hatch Act and its attendant regulations prohibit VISTA members from using their official titles while engaging in “political activity,” that is, activity directed toward the success or failure of a political party, partisan candidate, or partisan political group, simply identifying political party affiliation on their social media profiles, which also contains their official title or position, without more, is not “political activity.”

May a VISTA member become a “friend” of, or “like” the Facebook page, or “follow” the Twitter account of a political party, partisan political group, or partisan candidate?

Yes, but, the Hatch Act prohibits VISTA members from engaging in political activity while on duty or in a federal building. Thus, if they are a “friend” of, or “like,” a political party, partisan political group, or partisan candidate on Facebook, or “follow” such entities on Twitter, they should not engage in activities with respect those entities' social media accounts that would constitute “political activity” during duty hours or while in the federal workplace. Political activity is defined as any activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office. This would include, for example, suggesting that others “like,” “friend,” or “follow” the party, group, or candidate, accepting an invitation to a partisan political event, or forwarding the invitation to others.

In addition, the Hatch Act prohibits VISTA members from soliciting, accepting, or receiving political contributions at any time. Thus, if an employee receives an invitation from the party, group, or candidate to a fundraising event via Facebook or Twitter, the VISTA member would be prohibited from sharing that invitation with others.

I am a VISTA member who, as part of my official VISTA duties, works on my project’s social media site. One of my project’s strong supporters is running in a local partisan election for a seat on the city council. May I post something on the project’s social media site in support of the candidate?

No, neither you nor any other VISTA member, nor any grant-funded staff of the project, may post a communication on the project’s social media site regarding the candidate. As discussed above, AmeriCorps members, VISTA members, Senior Corps volunteers, and sponsor/grant-funded staff are all strictly prohibited from engaging in partisan political activities that are designed to influence the outcome of an election to a public office.

Additionally, because VISTA members are considered federal employees for purposes of the Hatch Act, they are prohibited from engaging “activity directed at the success or failure of a political party, partisan political candidate, or partisan political group,” while they are on duty as a VISTA member or at the VISTA service site. Therefore, the Hatch Act is an additional reason why VISTA members would be prohibited from posting something on the project’s social media site regarding the candidate.