# AmeriCorps State and National Policy Frequently Asked Questions (FAQs)

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### DISCLAIMER

This website does not supersede any of the requirements established by the Corporation's regulations; the terms, conditions, and provisions of an AmeriCorps grant or cooperative agreement; or the standard federal requirements applicable to all federal grants. It is intended as a resource to help state commissions, state programs, national parent organizations, and national sites establish and maintain sound operations in compliance with federal and state statutes, regulations, provisions, and policies.

### WHERE TO FIND INFORMATION RESOURCES

The AmeriCorps statute, the National and Community Service Act (NCSA), the AmeriCorps regulations, and the AmeriCorps State and National grant provisions are available in keyword searchable format here: http://www.nationalservice.gov/build-your-capacity/grants/managing-americorps-grants.

Relevant information on policy matters are communicated via e-mail and posted on the Communications Center. You can subscribe to the Communications Center and receive an e-mail message informing you of new material posted there. If you have questions about these Policies and Policy FAQs, please address them to PolicyQuestions@cns.gov or call (202) 606-6930.

For the purposes of these FAQs, "AmeriCorps" refers to AmeriCorps State and National grantees only. The term grantee is used to connote either grantee or subgrantee, as appropriate, throughout these FAQs.

## *A. ORGANIZATIONAL ELIGIBILITY AND GRANT APPLICATION*

**A. 1. How do I request a copy of an AmeriCorps grant application?**
All funded AmeriCorps State and National grant applications are now posted on our Funding Opportunities page, here: http://www.nationalservice.gov/build-your-capacity/grants/funding-opportunities.

**A. 2. Is a 501(c)(6) organization eligible to apply for and receive an AmeriCorps grant?**
As long as the 501(c)(6) organization does not engage in lobbying activities (as defined under the Lobbying Disclosure Act of 1995), it may apply for and is eligible to receive federal grant funds. If it does engage in lobbying activities, it is ineligible to receive federal grant funds.

**A. 3. Is a 501(c)(4) organization eligible to apply for and receive an AmeriCorps grant?**
As long as the 501(c)(4) organization does not engage in lobbying activities (as defined under the Lobbying Disclosure Act of 1995), it may apply for and is eligible to receive federal grant funds. If it does engage in lobbying activities, it is ineligible to receive federal grant funds.

**A. 4. Must an organization have 501(c)(3) status to be granted funds by the Corporation?**
May an organization receive AmeriCorps funds even though its application for 501(c)(3) status has not been approved? And, is there a one-year waiting period after approval of 501(c)(3) status before an award can be made?
The Corporation does not require 501(c)(3) approval as long as your organization is recognized as a nonprofit organization by your state. Hence, the status of any federal application for 501(c)(3) status is immaterial, and there is no one-year waiting period.

**A. 5. May a for-profit entity apply for an AmeriCorps grant, or serve as a service site?**
A for-profit entity is not eligible to apply for an AmeriCorps grant or serve as a service site. An AmeriCorps member may not provide a direct benefit to a for-profit entity. If the grantee can establish that the AmeriCorps member will actually be providing a direct benefit to someone other than the for-profit entity—for example, to the community, children, or parents—and that the for-profit entity is only a secondary beneficiary of the service, then service at a for-profit site may be allowable. The grantee must also ensure that the members do not displace employees.

**A. 6. May the Corporation make grants to other federal agencies?**
The Serve America Act amends the NCSA to explicitly prohibit grantmaking to other federal agencies in Subtitle C Section 1301. However the Act states that "The Corporation may enter into an interagency agreement (other than a grant agreement) with another federal agency to support a national service program carried out or otherwise supported by the agency. The Corporation, in entering into the interagency agreement

may approve positions as approved national service positions for a program carried out or otherwise supported by the agency."

**A. 7. May an organization use grant funds for the sole purpose of providing individuals with referrals to other federal or state assistance programs funded in part by the federal government?**
No. The Serve America Act amends the NCSA to prohibit an organization from using grant funds for the sole purpose of providing individuals with referrals to other federal or state assistance programs funded in part by the federal government.

**A. 8. May an organization that has violated a federal statute apply for funding under Subtitle C?**
No. The Serve America Act amends the NCSA to disqualify any organization that has violated a federal statute from receiving assistance under Subtitle C.

**A. 9. Must a service sponsor submit a written concurrence from a labor union if there are employees in the area performing the same or similar work as that proposed to be carried out by AmeriCorps members?**
Under Sec. 130(g), if employees of the service sponsor are (i) "engaged in the same or substantially similar work" as that proposed to be carried out by AmeriCorps members, and (ii) represented by a labor union, then the service sponsor must obtain a written concurrence from the labor union and submit that concurrence along with the application.

Under Sec. 131(c), if there are (i) "*employees in the area* who are engaged in the same or similar work as that proposed to be carried out" by the AmeriCorps members, and (ii) those employees are represented by a labor union, then the program applicant must provide an assurance on its application that it will consult with that labor union prior to placing the AmeriCorps members. At some point before the program places the AmeriCorps members (not necessarily before the program applies for a grant), the applicant must have a conversation with the labor union and let them know what the program will be doing. The program doesn't need to get the union's concurrence, or consent, unless the labor union is representing the applicant's own employees, and those employees are performing "the same or substantially similar" work as the AmeriCorps members.

## *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.

**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.
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**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. Additionally, the individual may not have dropped out of elementary or secondary school to enroll in the program. For individuals who are

incapable of obtaining a high school diploma or its equivalent based on an individual education assessment, see FAQ B.14 and see also 42 U.S.C. §12591(a)(4).

**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?**

No. While an individual must meet the eligibility criteria in 42 U.S.C. §12591(a)(4) in order to serve in AmeriCorps State and National (which is generally met when the individual has, or agrees to obtain, a high school diploma or its equivalent), a high school diploma or its equivalent is no longer required in order to receive an Education Award from the National Service Trust. This was a statutory change made in 2009. Regulation 45 C.F.R. 2526.10(b) is no longer valid and will be removed from the CFR. A member must have completed a term of service certified by the program before an Education Award is available for use. See 42 U.S.C. §12602(a) and see http://www.nationalservice.gov/programs/americorps/segal-americorps-education-award

**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 high school equivalency. 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 high school equivalency.

**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 or otherwise meets the requirements of 42 U.S.C. §12591(a)(4).

**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.

**B. 20. Where can I find FAQs on Criminal Background Checks?**
These FAQs can be found here:

https://www.nationalserviceresources.org/files/faqs-including-all-comments-revisions-11-30-12.pdf

*C. Supervising Members*

**C. 1. Are AmeriCorps members employees?**
AmeriCorps members are not employees of the AmeriCorps program or of the federal government. The definition of "participant" in the National and Community Service Act of 1990 as amended applies to AmeriCorps members. As such, "a participant (member) shall not be considered to be an employee of the organization receiving assistance under the national service laws through which the participant (member) is engaged in service" (42 U.S.C. 12511(30) (B)). Moreover, members are not allowed to perform an employee's duties or otherwise displace employees.

For the limited purposes of the Family and Medical Leave Act of 1993, the member may be considered an eligible employee of the project sponsor. The Family and Medical Leave Act's requirements as they apply to AmeriCorps Programs are contained in 45 CFR 2540.220(b).

**C. 2. Must a grantee conduct a member orientation, and if so what should be included?**
The grantee must conduct an orientation for members. This orientation should be designed to enhance member security and sensitivity to the community. Orientation should cover member rights and responsibilities, including the Program's code of conduct, prohibited activities (including those specified in the regulations), requirements under the Drug-Free Workplace Act (41 U.S.C. 701 *et seq*.), suspension and termination from service, grievance procedures, sexual harassment, other non-discrimination issues, and other topics as necessary.

**C. 3. Should the grantee encourage members to register and vote?**
The grantee should encourage all eligible members to register and vote. However, the grantee is prohibited from requiring members to register or to vote, and from attempting to influence how members vote. Members who are unable to vote before or after service hours should be allowed to do so during their service time without incurring any penalties. The site supervisor should determine the length of absence.

**C. 4. May an AmeriCorps member serve on jury duty?**
The grantee must allow AmeriCorps members to serve on a jury without being penalized for doing so. During the time AmeriCorps members serve as jurors, they should continue to receive credit for their normal service hours, a living allowance, health care coverage and, if applicable, child care coverage regardless of any reimbursements for incidental expenses received from the court.

**C. 5. May an AmeriCorps member provide abortion services and/or referrals?**
No. Beginning on October 1, 2009 members—including members who enrolled prior to that date—may not provide abortion services or make referrals for such services.

**C. 6. What must a program do to enable members to complete their terms of service?**
A program should make every effort to enroll members so that each member has a reasonable expectation of completing his/her term of service by the end of the program's project period. 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 a member may receive a prorated education award if the member has completed at least 15% of the service hour requirement. Serving less than 15% of a full term of service does not count as a term of service.

C. 7. What is the policy on electronic storage of member files?
Typically, programs store member eligibility documentation, timesheets, and other relevant documents in paper files which become cumbersome to maintain and store. Sections 1703 and 1705 of the Government Paperwork Elimination Act state that electronic records are not to be denied legal effect, validity, or enforceability merely because they are in electronic form.

This policy allows AmeriCorps State and National grantees the option of storing member files in electronic formats, when practicable. It also provides minimum standards that such systems must meet.

MINIMUM STANDARD FOR ELECTRONIC DOCUMENT STORAGE:
A program may store member files electronically if the program can ensure that the validity and integrity of the record is not compromised. The Corporation will recognize electronically stored files where the electronic storage procedures and system provide for the safe-keeping and security of the records, including:

- Sufficient prevention of unauthorized alterations or erasures of records;
- Effective security measures to ensure that only authorized persons have access to records;
- Adequate measures designed to prevent physical damage to records;
- 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:

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

NOTE: All current grant provisions regarding access restrictions, security, privacy, and retention of paper records, also apply to electronic records.

**C. 8. May I use an electronic timekeeping system as my system of record?**
The Government Paperwork Elimination Act of 1998 (GPEA) states that electronic records and related electronic signatures are not to be denied legal effect, validity, or enforceability merely because they are in electronic form. (Pub. L. 105-277, Title XVII).

CNCS policy allows AmeriCorps State and National grantees to use electronic timekeeping systems as the system of record. It also provides minimum standards that such systems must meet.

MINIMUM STANDARD FOR ELECTRONIC TIMEKEEPING SYSTEMS:

Electronic timekeeping systems are allowed as the system of record when three conditions are met:

1. A written policy is in effect establishing the use of electronic timekeeping system as your system of record; and,
2. A secure, verifiable electronic signature system (a) identifies and authenticates a particular person as the source of the electronic signature; and (b) indicates such person's approval of the information contained in the electronic message.
3. Once appropriate electronic signatures have been applied, no changes may be made unless there is a clear, auditable record of the revision.

All current grant provisions including access restrictions, security, privacy, and retention of paper records, also apply to records maintained in an electronic timekeeping system.

The use of regular e-mail to communicate approval is not a secure, verifiable electronic signature system.

**C. 9. What are the requirements for time and attendance reporting for Professional Corps?**

A Professional Corps operating site will not be required to maintain the member timesheets that are required of AmeriCorps grantees, if the Corporation approves the Professional Corps use of an alternative professional timekeeping system that is consistent with the requirements under the applicable OMB cost principles.

A Professional Corps legal applicant has the option, at the start of each grant cycle, to request a special condition that will release the program from maintaining separate weekly timesheets for their Professional Corps AmeriCorps members. This does not release them from accounting for time and attendance through the normal process in place at the service site for other professionals.

In order to qualify, the legal applicant must demonstrate and document that its members will meet the minimum number of hours required to earn the appropriate education award by fulfilling the normal duties of the profession, or by a combination of normal duties and other professional opportunities sponsored by the program. The legal applicant must also describe how its service sites will account for time and attendance, and how they will certify total hours served at the completion of each member's term. The procedures must include certification by both the member and the member's supervisor.

The Professional Corps program must submit its request for this special condition to the designated Corporation program officer. If recommended by the deputy director of AmeriCorps, the Office of Grants Management will determine if the Professional Corps request adequately documents that the program design and the planned professional

activities will result in sufficient hours to earn the appropriate education award, and describes the method of certification. Upon approval, the Office of Grants Management will add the special condition to the grant award.

If the request for this special condition is approved, the Professional Corps program will require that its members follow the time and attendance practices as approved in the request. At the end of each member's term of service, the program must certify that the member has completed all professional obligations and has served at least the minimum required number of hours to earn the appropriate education award.

Once a Professional Corps grantee is approved for the special condition, the grantee does not have to apply again when recompeting for funds if the grantee plans to continue to use the same procedures that were previously approved. Upon approval for funding, the grantee is required to send a request to their Program Officer and Grants Officer in this format to continue operation under the special condition:

[Name of grantee} requests that the Professional Corps timekeeping special condition be added to the new Grant Award [number of grant award]. [Name of grantee] will continue to follow the timekeeping procedure that was previously approved and will certify that members have completed the minimum required hours excluding sick and vacation days as approved in Grant Award [number of grant award originally special conditioned].

Professional Corps grantees that do not apply for the special condition, or that apply and are not approved, will be required to meet the timekeeping requirements in the grant provisions applicable to grantees that do not qualify for the special condition.

**C. 10. We pay our living allowances on a monthly basis. How should we handle situations in which members come on board late in the month or exit early in the month at the end of their term?**

You should establish a written policy that is reasonable. For example, if a member comes on board within the first two weeks of the month, you might set policy that gives them the entire living allowance. If they start service later than that, you could prorate the amount based on the number of days in the month they will serve. The same would hold true for the end of service. If they leave within the first two weeks of the month, their living allowance could be based on the number of days in the month they served. If they serve over the 2-week cut-off, they could get the full living allowance. You can establish different cut-off points as long as they are reasonable, documented in policy, and followed consistently.

**C. 11. May a grantee use funds from another federal agency to pay for member living allowances?**

Yes. The single match requirement does not include a prohibition against using other federal funds to support living allowance costs. However, grantees should ensure that the other federal agency is aware that its funds will be used to support the AmeriCorps living allowance.

**C. 12. If a grantee uses funds other than the Corporation's to pay the living allowance, is the grantee still required to follow the Corporation's regulations and provisions regarding living allowances?**
Yes. If the living allowance is part of the grant, the fact that the living allowance is paid out of Corporation funds or match does not change the grantee's duty to abide by the regulations and provisions regarding living allowances.

**C. 13. Can a program use a debit card to pay a members living allowance?**
The Corporation has two priorities regarding member payment: (1) that the programs are following their own accounting policies and procedures and (2) that the members have access to their funds with the ease of a regular checking account to meet their financial obligations. The Corporation does not prohibit or oppose program use of debit cards for member payment.

**C. 14. What are the definitions of the various terms of service?**

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Each Program must, at the start of the term of service, establish the guidelines and definitions for the successful completion of the program year, ensuring that these program requirements meet the Corporation's service hour requirements as defined below:

- Full-time members. Members must serve at least 1700 hours during a period of not more than one year.
- Half-time members. Half-time members must serve at least 900 hours during a period of one or two years as indicated in the approved budget.
- Reduced half-time members. Reduced half-time members must serve at least 675 hours during a period of not more than one year.
- Quarter-time members. Quarter-time members must serve at least 450 hours during a period of not more than one year.
- Minimum-time members. Minimum time members must serve at least 300 hours during a period of not more than one year.

**C. 15. If a member receives a Federal Work Study award does this affect their AmeriCorps living allowance?**
A program with a member who receives a federal Work-Study award is required by the SAA to reduce the member's living allowance by the amount of the work-study award.

**C. 16. A program includes work-study students who are compensated at different rates for their work-study hours. Is it permissible to provide different living allowance amounts to members within the same program?**
To ensure equitable treatment of members, the Corporation discourages grantees from providing different living allowance amounts to AmeriCorps members with the same position description serving in the same program. However, a uniform living allowance amount for each and every member in a program is not absolutely required. Grantees should discuss the specifics of their proposed member support framework with their program and grants officers at the Corporation.

**C. 17. Does federal law exclude AmeriCorps living allowance payments from state pension plan contribution requirements?**
The Corporation's position is that mandatory contributions from the living allowance to a retirement system conflicts with the federal statutory requirement that AmeriCorps members receive a specific living allowance amount. The national service laws specify how much an AmeriCorps member is entitled to receive as a living allowance when serving in AmeriCorps. The laws also specify what must and what may be deducted from the living allowance. State pension plan contributions are not among the deductions that may be made from the living allowance. The member's living allowance is a federal benefit, as opposed to a wage. Consequently, deductions from the living allowance prior to the member receiving it are not permitted. In addition, a member is not considered to be an employee of the program in which the member is enrolled, and thus generally not subject to employment laws, unless specifically authorized by statute. 42 U.S.C. § 12511(17)(B).

In short, while there is no specific exemption in the national service laws for state pension plan contributions, the statute's failure to specify that such contributions may or must be made from the living allowance means that the living allowance is not available for that purpose.

**C. 18. May a program temporarily withhold a member's living allowance if the member has failed to submit his or her timesheets for two or more weeks?**
A program may temporarily withhold a member's living allowance if the member has failed to submit timesheets. The member agreement must clearly state the policy, and the withholding must be temporary, and not result in the program docking the member's living allowance.
Reference: 2007 AmeriCorps grant provisions IV. H.

**C. 19. Can a member living allowance be garnished by law?**
Any type of garnishment of the federal portion of a member's living allowance is not permitted due to issues of sovereign immunity. Sovereign immunity protects the property interests of the United States from suits to which it has not consented. The federal government has a continuing property interest in AmeriCorps grant funds until they are expended in accordance with the grant's terms. With respect to the living allowance, the Corporation has a property interest in the federal share of the member's living allowance,

until the AmeriCorps member actually receives it, and this property interest is protected by sovereign immunity. Only Congress may waive this immunity.

Whether or not the non-federal portion of the living allowance–i.e. the funds provided as match at the program level–is subject to garnishment is a state law issue. Because the Corporation is not a party to this action, and because it involves application of state law, programs should consult their own local counsel.
Reference: 42 U.S.C. § 12594

**C. 20. Section 2522.240(b) of the Corporation's regulations state that any individual who participates full-time in an AmeriCorps subtitle C program, including in a program that receives "education awards only," must receive a living allowance. Does this mean full-time Education Award Programs (EAPs) must provide a living allowance?**
No. The Corporation's annual appropriation contains statutory language that overrides the regulations. The regulation applied when the EAP program was funded under subtitle H and, thus, subject to different rules than subtitle C programs. When Congress directed the Corporation to fund the EAP program out of subtitle C, it included language in the appropriation to continue exempting the EAP program from living allowance and match requirements.
Reference: 45 CFR § 2522.240; P.L. 110-5, Division B, Revised Continuing Appropriations Resolution 2007 (January 4, 2007).

**C. 21. If an EAP chooses to pay a living allowance, are they held to the statutory minimum and maximum?**
The minimum does not apply. Congress explicitly exempted EAPs from living allowance requirements in appropriations language. Therefore if EAPs are exempted from paying a living allowance at all, the "minimum" that they have to provide is $0. However, EAPs that do provide living allowances (other than Professional Corps) are required to comply with the maximum.

**C. 22. May a Professional Corps provide a living allowance to its members in excess of the statutory maximum living allowance for most AmeriCorps programs?**
The NCSA provides an exception to the maximum living allowance for certain Professional Corps programs. Under the NCSA, a Professional Corps program is one that recruits and places qualified participants in positions "as teachers, nurses, and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet educational, human, environmental, or public safety needs in communities with an inadequate number of such professionals;" and "that are sponsored by public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits of the participants."

Professional corps programs that meet this definition may provide a living allowance (or salary) in excess of the maximum statutory living allowance.

Reference: 42 U.S.C. §§ 12572(a)(8) and 12594(c); 45 CFR § 2522.240(b)(2).

**C. 23. Is the grantee required to provide unemployment insurance?**
The U.S. Department of Labor ruled on April 20, 1995 that federal unemployment compensation law does not require coverage for members because no employer-employee relationship exists. The grantee may not charge the cost of unemployment insurance taxes to the grant unless mandated by state law. Programs are responsible for determining the requirements of state law by consulting their state commission, legal counsel or the applicable state agency. AmeriCorps State and National grantees must coordinate with their state commissions to determine a consistent state treatment of unemployment insurance requirements.

**C. 24. What are allowable minor disciplinary actions?**
The grantee may temporarily suspend or impose a fine on a member for minor disciplinary reasons, such as chronic tardiness, as outlined in the conditions of the member agreement.

*When a member is suspended as a minor disciplinary action, should he or she continue to accrue service hours and collect the living allowance?*
The period of suspension does not count toward a member's required service hours. Further, members who are suspended for minor disciplinary reasons may not receive a living allowance for the suspension period.

*How should fines be collected as a minor disciplinary action?*
If determined to be necessary for improvements in member performance or attendance, the grantee may impose a reasonable fine on members for minor disciplinary problems consistent with the member agreement. The fines may not be calculated on an hourly basis. For example, a member who is an hour late may not be fined an hour's worth of living allowance. Instead, the grantee should establish a written policy on fines, which is not linked to an hourly rate.

The grantee may deduct fines from that portion of the member's living allowance that is paid by non-federal funds. Before making any deductions, the grantee should consider how this might affect the status of members under employment laws, including minimum wage and unemployment compensation. Further, a grantee that deducts in this fashion may be required to provide additional matching funds.

**C. 25. What happens when an AmeriCorps member is charged with a crime?**
An AmeriCorps member who is officially charged with a violent felony, or with the sale or distribution of a controlled substance during a term of service will have his/her service suspended without a living allowance and without receiving credit for hours missed. The member may be reinstated into AmeriCorps service if he/she is found not guilty or if the charge is dismissed. If an AmeriCorps member who has been cleared of such charges is unable to complete his/her term of service within one year, he/she may accept a pro-rated education award as long as he/she has completed at least 15% of his/her service.

An AmeriCorps member who is convicted of a criminal charge as described above must be terminated for cause from the program, and he/she is not eligible for any portion of an education award.

**C. 26 How should a program handle a situation when a member serves no hours during a pay period?**
Situations in which a member serves zero hours during a pay period should be very rare and the member should be suspended if there are periods in which no service is performed. Otherwise, since the living allowance is to be distributed evenly over the service period, it should be paid regardless of the number of hours. However, a member's agreement could also stipulate conditions under which the living allowance is paid and what the member should do if a period occurs in which no hours are served. The agreement could also stipulate the minimum number of hours required during each service period.

**C. 27. If a member is unable to complete their term due unexpected time demands due to employment, can the member to continue to serve after the dates in the member agreement in order for the member to successfully complete service and receive the education award?**
Yes, you may amend the agreement and allow the member to complete his or her term, provided the extension does not exceed the term limits, e.g. one year for full-time.

**C. 28. May an AmeriCorps member use AmeriCorps service to satisfy an internship requirement for college?**
There is no rule to prohibit this type of arrangement. In fact, the regulations describe, as one type of program eligible for AmeriCorps funds, "campus-based programs" that "provide substantial service in a community during a school term and during summer or other vacation periods." 45 CFR 2522.100(e). While this type of arrangement is not precluded, programs should consult with their AmeriCorps program officer on a case-by-case basis to ensure that the member is still meeting an unmet need.

**C. 29. Is a member who is released for cause eligible to serve a subsequent term?**
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.
As stated in the AmeriCorps regulations, any individual released for cause who thereafter applies to serve in any AmeriCorps program must disclose the fact that he/she was released for cause to the program to which the individual is applying. Failure to disclose that the individual was released for cause from another AmeriCorps program will make the individual ineligible to receive the AmeriCorps education award.

Eligibility for subsequent term. A participant will only be eligible to serve a second or additional term of service if that individual has received satisfactory performance review(s) for any previous term(s) of service in accordance with the requirements of paragraph (d) of this section. Eligibility for a second or further term of service does not guarantee a participant selection or placement.

**C. 30. Can the member who files a grievance following termination receive an education award?**
If the grievance process determines in favor of the member, then it would be appropriate for the member to receive his or her education award as part of a settlement.

**C. 31. What happens if a program cannot afford the costs of going through the grievance process? If the program has access to non-federal funds to settle the grievance, may the program use them to do so?**
The program should contact its state commission or National Direct parent organization for assistance. Programs are expected to be able to implement the grievance procedure within the administrative funding of the grant. If extraordinary expenses are incurred, involving outside expertise, authority to re-budget to pay such expenses should be sought from the Corporation Grants office, which will review any exceptional legal or other expenses related to carrying out a full grievance process and a settlement.

**C. 32. May an individual who applies to be an AmeriCorps member but who is not selected file a grievance through a grantee's grievance process?**
By law, any "interested" individual, including participants, labor organizations, and applicants, may file a grievance with a program.

**C. 33. An AmeriCorps member was terminated for cause, and the program gave her an unsatisfactory performance rating. She has filed a grievance disputing the termination and the rating. Is the member eligible to serve another term in another program?**
Unless and until this grievance results in a rating of "satisfactory" for the member, she is not eligible to serve a term with another program.

**C. 34 May a program reimburse a dismissed member for living allowance and time missed if the member's dismissal is not upheld as a result of the grievance process?**
Yes, if this is in the context of a resolved grievance. The costs associated with settling a grievance may be allowable if reasonably necessary for the program to carry out the purposes of the grant. Things like missed hours and living allowance due under a resolved grievance are generally considered "reasonably necessary" because living allowances are already approved, allowable costs.

**C. 35. Can members perform service that involves renovating facilities housed entirely within a building used for religious purposes if those facilities are used for non-religious functions as well (e.g. shelters, soup kitchens, etc.)?**
The key issue here is whether there is a realistic risk that an objective observer would conclude, based on all the facts, that the federal government, through its support of AmeriCorps members, is endorsing religion. While AmeriCorps members may not construct, renovate, maintain, or operate any facility primarily or inherently devoted to religious instruction or worship, it may–depending on the specific facts–be permissible for them to renovate facilities used solely for non-religious purposes and available to anyone in the community, even if the facilities are physically housed within a building used for religious purposes. However, because each situation turns on its specific facts,

any programs facing this type of question should consult their program officer to obtain guidance.

**C. 36. May an AmeriCorps program hold prayer sessions after its AmeriCorps meetings if the members all agree to it?**
Members may not earn service hours while engaged in a prayer session. If the program does hold prayer sessions, they must be very clearly optional, held at a different time and/or location from AmeriCorps service activities, and planned in a way so that those who do not wish to participate do not feel compelled to do so. The grantee or program must be able to articulate how they comply with Corporation regulations on prohibited activities related to religious activities.

**C. 37. If a member is serving at a location where employees go on strike, may the member cross the picket line and continue to serve there?**
The AmeriCorps regulations at 45 CFR § 2520.65 prohibit a member from organizing or engaging in strikes; assisting, promoting or deterring union organizing; or impairing existing collective bargaining agreements. They do not address the issue of whether a member may cross the picket line during a strike. The program must make the decision, on the basis of all the facts, while ensuring (1) that the member is not engaging in any prohibited activities, and (2) the member's safety. If the program decides against having the member continue his or her planned service activities, the program should work with Corporation program and grants staff to amend its program objectives and performance measures, as necessary.

**C. 38. May an AmeriCorps member perform paid work for the grantee or at the member's service site outside of the member's service assignment?**
The Corporation has a long-standing practice of advising against an AmeriCorps participant being simultaneously employed by the organization with which the participant is serving. AmeriCorps members are, by definition, not employees of the organizations with which they serve. To allow a member, even in the member's free time, to perform paid work begins to chip away at the wall between "employment" and "service." The program would be presented with a challenge in distinguishing between time that the individual is a participant, and time that the individual is an employee. This is particularly problematic if the program is operated by a faith-based organization where there may be issues related to prohibited activities.

Although it may be possible to structure a relationship in which an individual, during non-AmeriCorps service hours, performs paid work for the same organization, in which the individual's duties as a participant are entirely distinct from the individual's duties as an employee, the Corporation's general stance is that the risk for confusion is insurmountable.

**C. 39. May an AmeriCorps member receive service hour credit for time spent studying for a high school equivalency?**
Members may earn service hours for time spent studying for their high school equivalency as part of their education and training hours if this is a component of the program design.

**C. 40. How should members account for travel time to statewide events or training events?**
Programs must exercise their judgment when allowing time spent traveling as service hours. In most instances, time spent traveling to training or special events is not direct service and cannot be counted as such. Ordinary commuting time is not allowable as a general rule. However, when training or special events require out-of-town or other exceptional travel beyond ordinary commuting, it is reasonable for each program to determine what amount of travel time can be charged to non-direct service hour activities or training. To the degree that out-of-town activities are planned in advance, the program should lay out its expectations in the member agreement.

**C. 41. Can travel time between service sites be counted as service time?**
Yes. Member travel time between service sites during a service day is counted as service time; the initial trip to a service site that day, and the time going home from the last site, are considered commuting time and are not counted as service hours.

**C. 42. Can a program have its members sign an agreement with the program that the member will reimburse the program for costs of attending a conference if the member chooses not to attend without a good reason?**
Programs should establish disciplinary policies that can be implemented in an objective, consistent, fair, and equitable way that will result in the desired outcome (i.e., improved behavior and performance by members). In this case, the criteria as to what constitutes a "good reason" would have to be well defined and supportable.

**C. 43. What potential liability issues need to be taken into consideration for members who plan to travel out of state for disaster relief activities during their term of service?**
If the program has worker's compensation, the program would need to ensure coverage would extend to accidents that occur out of state. If the program does not have worker's compensation, they need to be sure the accidental death and dismemberment insurance policy will cover any accidents that occur out of state. The program should also ensure that its liability coverage extends to the out-of-state activities.

**C. 44. If a member is suspended, is the program required to reinstate the member once the suspension is over?**
No. A member may be reinstated in the program in which he or she was serving, but this is not mandatory.

**C. 45. Under what conditions can a program release a member for compelling personal circumstances?**
To be released for compelling personal circumstances a member must have performed satisfactorily, completed at least 15% of his or her term, and the program must document that the member who was unable to complete their term of service due to circumstances beyond their control.

**C. 46. Who determines whether a personal circumstance is sufficiently compelling to warrant release with partial award?**
The grantee is responsible for determining and documenting compelling personal circumstances. The Corporation and its auditors may review these circumstances as part of their oversight and monitoring responsibilities.

**C. 47. Can pregnancy or childbirth be considered a compelling personal circumstance for which the member can be released from service with a pro-rated education award?**
Pregnancy and/or childbirth could be determined by the grantee to be compelling personal circumstances if they prevent the member from completing a term of service. The member might also qualify under the Family Medical Leave Act, if the member is covered, or the program could suspend the member so that the member can return some time in the future (within 2 years) to complete the term of service.

**C. 48. May a program stipulate in its member agreement that a member may be released for cause if she becomes pregnant?**
No. This would be an instance of discrimination on the basis of gender in violation of the Corporation's anti-discrimination. It may also be a violation of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq:). A pregnant person would be entitled to the same treatment as someone with a medical condition that might require time away from the term of service.

**C. 49. Under what circumstances may a program determine that a compelling personal circumstance exists when a member leaves service to start a job?**
In general, a job is not considered a compelling personal circumstance. If a member decides to leave to take a job, the member would be exited for cause and would not be eligible for the education award.

The regulations and provisions contain a narrow exception to this general rule. Compelling personal circumstances may include leaving a program to obtain employment IF the member is moving from welfare to work, or is enrolled in a program "that includes in its approved objectives the promotion of employment among its members." If a member is a welfare recipient and is able to obtain a job that will get him or her off welfare, the program may deem his or her early departure from a program as a compelling personal circumstance.

Similarly, if a program has an approved objective of promoting employment among its members, the program could consider a member's early departure from the program to

take a job as a compelling personal circumstance. Without such an approved objective, a member leaving to take a job must be released for cause. In all cases, it is the program's responsibility to make the determination and to document the decision.

**C. 50. How should we handle time off for members serving in the Armed Forces Reserves?**
Generally, the Reserves of the U.S. Army, U.S. Navy, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, the Army National Guard, and the Air National Guard require reservists to serve one weekend a month plus 12 to 15 days a year (hereafter referred to as the two-week active duty service). To the extent possible, grantees should seek to minimize the disruption in members' AmeriCorps service as a result of discharging responsibilities related to their reservist duties. If members have a choice of when to fulfill their annual two-week active duty requirement, they should do so when it will not disrupt their AmeriCorps service. In instances where the dates of active duty are inflexible and conflict with AmeriCorps service, members should be granted a leave of absence for the two-week period of active duty service in the Reserves.

Members may not receive time-off for additional Reserves-related service beyond the two-week active duty service. No AmeriCorps service credit is earned for the once-a-month weekend service in the Reserves. Grantees should credit members for AmeriCorps service hours during their two weeks of active duty service in the Reserves if it occurs during their AmeriCorps service. The member would receive credit for the number of hours he or she would have served during that period had there been no interruption. For example, if a full-time member is signed up to serve 30 hours of AmeriCorps service one week and 40 hours of AmeriCorps service on the following week, she or he would receive 70 hours of AmeriCorps service credit for the two weeks of active duty service regardless of the actual number of hours served in the Reserves.

Reservists in the U.S. Armed Forces receive compensation for their mandatory two weeks of active duty service. The compensation regulations governing the Army and Air National Guard may vary by state.

Grantees should continue to pay the living allowance and provide health care and child care coverage for the two-week period of active duty.

**C. 51. If a member leaves a program before serving at least 15% of the required service hours, is this member included in determining the program's retention rate? May the program use Corporation grant funds to support such a member?**
Yes, to both questions. The member is included in determining the program's retention rate, and the program may use Corporation grant funds to cover the costs of the member even though he or she left prior to serving 15% of the required service hours.

**C. 52. May an individual who served less than 15% of a first term and completed a second term serve a third term in an AmeriCorps State and National program?**
Yes. Serving less than 15% of a term, unless the member leaves due to misconduct, is not counted in ascertaining the number of terms of service.

**C. 53. May a less-than-full-time member serve a concurrent term in a different program during the same program year?**
Yes, a less-than-full-time member may serve a concurrent term in a different program during the same program year.

**C. 54. May a less-than-full-time member serve a consecutive term in a same or different program during the same program year?**
Yes, a less-than-full-time member may serve a consecutive term in the same or a different program during the same program year. If you are considering allowing this, please contact your program officer.

**C. 55. When and how can a member transfer between programs?**
A state commission or National parent organization may grant permission to transfer a member to another AmeriCorps State and National program for compelling personal circumstances. The following procedures are required:

1. Program A must first determine that compelling personal circumstances warrant a transfer.
2. Prior to initiating a transfer, Program A must provide written confirmation to Program B that valid compelling circumstances support the transfer to Program B.
3. The member must apply to and be accepted by Program B, which must have an available slot in the incoming class (this means the program is able to provide an entire term of member support costs and an education award).
4. The member must be able to finish their term of service within twelve months of their original start date.
5. Program B must approve the transfer in writing.
6. No funds can be transferred from Program A to Program B.
7. If Program A has already conducted the mid-term evaluation, they will provide it to Program B. If Program A has not yet conducted the mid-term evaluation, Program B will conduct the mid-term evaluation with consultation with Program A.
8. The transferred member cannot be counted twice for purposes of enrollment and/or retention.
9. The slot that remains with Program A will revert to new, unfilled status regardless of the length of time the member served.

Generally, members may not transfer across different streams of service. For example, a member may not transfer from an AmeriCorps State and National program to an AmeriCorps VISTA position or to AmeriCorps NCCC.

Programs with multiple sites may transfer members to other sites for program management purposes without following the procedures listed above.

**C. 56. What are the allowable responsibilities of team leaders in AmeriCorps State and National programs?**

The National and Community Service Act, as amended, provides for approved national service positions to include a "position involving service as a crew leader in a youth corps program or a similar position supporting a national service program that receives an approved national service position" 42 U.S.C § 12573(6). This language allows programs, in addition to youth corps, to use AmeriCorps members to provide an additional layer of leadership and support for members under certain conditions.
The following is guidance on the use of AmeriCorps members as Team Leaders.

In general, all prohibited activities listed in Section 5 of the AmeriCorps Provisions apply to Team Leaders just as they do to all AmeriCorps members. Team Leaders are not permitted to act in a staff capacity. Supervising members is a staff responsibility. Team Leaders must not be responsible for program development and coordination; however, they may assist by providing information and resources on best practices or by helping to develop portions of the program such as the training curriculum. In essence, under no circumstances should an AmeriCorps member serving as a Team Leader be the individual legally responsible for the program or other members.
The Team Leader position description should emphasize activities that involve them in performing direct service or providing support to members engaged in direct service.

Examples of Team Leader activities: working alongside members performing direct service to serve as a model and to provide on the spot assistance; training members; providing guidance and support to members, including reflection exercises, conflict resolution, advice for transitioning out of AmeriCorps, etc.; arranging member development activities; building a sense of esprit de corps and general team cohesion among members; leading monthly/weekly meeting of members; leading and facilitating team service projects; working with the community to develop partnerships, including community volunteers, that will support the members' projects; and communicating with program staff, site supervisors, and other members to ensure the execution of a quality program that is consistent with the AmeriCorps provisions.

Examples of *unallowable* Team Leader activities: signing member timesheets; evaluating member performance; disciplining AmeriCorps members; enrolling/dismissing AmeriCorps members; writing and/or signing program reports; managing the program's payroll and budget.

While Team Leaders are not to serve as the program's administrative staff, they may be engaged, on a limited basis, in activities that support the administration of the AmeriCorps program. These include: raising funds or in-kind contributions in direct support of specific AmeriCorps projects, such as team service projects.

**C. 57. What is the impact on the living allowance for residential programs, or programs that provide housing?**
Residential programs, or programs that otherwise provide housing, should ensure that the living allowance that they are providing, in addition to the value of the housing, does not equal more than the maximum living allowance.

**C. 58. What is the guidance regarding members serving on-call hours?**
The Corporation is not issuing formal policy on serving on-call hours, and suggests that grantees and state commissions check to see if their state has policy in this respect. If your state does not have a policy, the Corporation suggests that you establish your own policy. Common policy practice includes a provision that a member can count service hours only hours served on call on-site. On-call hours during overnight hours are often not allowable.

**C. 59. Are AmeriCorps members covered under the Volunteer Protection Act of 1997?**
The federal Volunteer Protection Act of 1997 generally protects volunteers from civil liability. However, the definition of volunteer excludes anyone who receives compensation (other than reimbursement for expenses) or anything of value in lieu of compensation in excess of $500 per year. AmeriCorps members who receive a living allowance or education award are not protected under the law.

**C. 60. A grantee has a member who is a retired civil servant receiving a federal civil service pension. Does the grantee or CNCS need a waiver for her to participate as an AmeriCorps member as the U.S. Office of Personnel Management requires for those who participate as AmeriCorps VISTAs?**
If a retiree from federal civil service returns to work for the federal government, his or her retirement benefits and/or new salary may be affected. However, AmeriCorps State and National members are not employees of the federal government or of the program for which they serve. The AmeriCorps State and National living allowance is not need-based and is not impacted by any other income a person may receive from other sources. There is no apparent conflict of interest in a retiree from federal civil service serving with AmeriCorps State and National.

**C. 61. What are the program responsibilities and requirements in administering child care?**
1. Informing the AmeriCorps Childcare Provider. In addition to determining a member's eligibility at the start of the term of service, Program directors are required to notify the AmeriCorps Childcare Provider immediately in writing when:
   - A member is no longer eligible for child care benefits due to a change in the member's eligibility status (e.g., family income exceeds the limit, the child turns 13, a full-time member becomes a less than full-time member, or a member leaves);
   - New or existing members become eligible for child care benefits;
   - A member wishes to change child care providers or a child care provider will no longer provide child care services; or

- A member is absent for excessive periods of time (five or more days in a month).

Costs incurred due to the grantee's failure to keep the AmeriCorps child care provider immediately informed of changes in a member's status may be charged to the grantee's organization.

2. Less-than-Full-time Members. Although no portion of child care expenses for less-than-full-time members may be paid from Corporation funds, Programs may choose to provide child care to half-time members from other sources.

3. Payments. Payments or reimbursement for child care benefits will be made for eligible members to qualified providers from the date child care need was established after service began. The amount of child care allowance may not exceed the applicable payment rate established by the State where the member is serving for child care funded under the Child Care and Development Block Grant Act of 1990. No payments and reimbursements will be made in the event the AmeriCorps member was ineligible, or if the provider was not qualified under the state guidelines.

4. Less Than Full-Time Members Serving in a Full-Time Capacity. Less than full-time members who are serving in a full-time capacity for a sustained period of time (such as a full-time summer project) may be eligible for child care and health care benefits supported with Corporation funds.

**C. 62. If the AmeriCorps child care provider does not cover all of a member's child care expenses, is it allowable for the program to use other CNCS grant funds to cover the remaining unpaid balance? Can they use grantee funds for this expense and report this as match?**
Yes. They can use CNCS funds or grantee funds and count them as match as long as it does not exceed the allowance rate as set forth in 45 CFR §2522.250 (a)(3).

**C. 63. Is an AmeriCorps member eligible for state unemployment insurance if he or she is released from service?**
An AmeriCorps member's eligibility for state unemployment insurance is a matter of state law that is determined on a state-by-state basis. AmeriCorps grantees should consult their own state unemployment agency to determine the eligibility of members in their state for unemployment insurance. Payment into unemployment systems is not an allowable cost unless required by state law.

**C. 64. If an AmeriCorps member loses a job outside of service in AmeriCorps, is the individual eligible to receive unemployment compensation for the loss of that position or would continued service in AmeriCorps preclude the person from being considered unemployed?**
This is a state law question and the answer will differ from state to state. Some states view AmeriCorps service as employment in the unemployment compensation context, and others do not. Each state has to interpret its laws and determine whether it views AmeriCorps service as employment or not. If the state has not previously taken a position

on this issue, the state commission can try to persuade them one way or the other, but the state unemployment agency will make the final call.

**C. 65. The AmeriCorps grant provisions state that members may not receive health insurance paid for with AmeriCorps funds if they already have another type of health insurance. Does this apply to members who have Medicaid or Medicare coverage?**
Full-time members are entitled to health insurance coverage even if they are on Medicaid or Medicare. Medicaid and Medicare coverage are considered wrap around coverage, which means that they will pick up any costs that the health insurance policy provided by the member's AmeriCorps program does not cover.

**C. 66. Are AmeriCorps members entitled to continued health coverage under COBRA at the conclusion of their service in AmeriCorps?**
The federal right to have continued access to employer-provided group health coverage is commonly called COBRA continuation coverage, for the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) in which it first appeared. The requirements under the National and Community Service Act regarding health insurance apply to members only during their term of service. Therefore, the Corporation is not in a position to advise grantees or members on legal requirements outside the scope of our grant requirements. We are not aware of any definitive ruling by the Department of Labor or otherwise on whether, or under what circumstances, COBRA requirements apply to AmeriCorps members. Our understanding is that some health policies have provided members with COBRA coverage, while others have not.
Reference: 42 U.S.C. § 12594

**C. 67. May an AmeriCorps member who serves on a jury accept jury duty pay? If yes, may the host organization require the member to provide the jury duty pay to the organization if it has such a policy for its employees?**
The Corporation's statute and regulations are silent on this issue; therefore there is nothing that would prohibit a member from receiving jury duty pay. If the program's policy of collecting jury duty fees is permitted under state law, the program may collect it from the member. The grantee should make sure that the program's practice is legal under state law.

**C. 68. Can a member be authorized for temporary leave for the reasons allowed under the Family Medical Leave Act (FMLA) if he or she does not otherwise meet the eligibility requirements for FMLA?**
At the grantee's discretion, temporary leave may also be authorized for the reasons allowed under FMLA to AmeriCorps members who do not otherwise meet the eligibility requirements for FMLA leave as described in the regulations. If temporary leave is appropriate, grantees have the flexibility to determine the duration of the absence for up to 12 weeks, and may choose to continue providing health benefits to the member during the period of absence. The member must be suspended during the period of temporary leave.

The length of the leave must be based on two considerations: (1) the circumstances of the situation; and (2) the impact of the absence on the member's service experience and on the overall program. If the disruption would seriously compromise the member's service experience or the quality of the program as a whole, then the grantee may offer the member the option of rejoining the program in the next class or completely withdrawing from the program.

**C. 69. What are the rules on AmeriCorps member eligibility for food stamps?**
The AmeriCorps State and National program is authorized by the National and Community Service Act of 1990 (NCSA), 42 U.S.C. § 12501 et seq. The NCSA states allowances, earnings, and payments to participants in AmeriCorps programs "shall not be considered income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any federal or federally-assisted program based on need, other than as provided in the Social Security Act." 42 U.S.C. § 12637(d). Based on the language, the USDA issued an opinion in 2001, which stated AmeriCorps State and National benefits are excluded from income for food stamp purposes.

**C. 70. Are EAP members eligible to receive child care through the Corporation provider?**
No, EAP members are not eligible for AmeriCorps child care benefits. EAPs are not required to provide child care benefits, thus CNCS is not required to pay for such benefits. If the EAP chooses to provide child care, it must do so through its own budget and if the program cannot, the program may compile a list of possible community resources that provide child care on a reduced or zero cost basis.

**C. 71. Are Professional Corps programs required to provide health care coverage for participants?**
No. While the national service legislation generally requires AmeriCorps programs to provide health care coverage for eligible full-time participants, the specific statutory authority for Professional Corps programs exempts them from health care coverage requirements. Professional Corps programs are defined by a specific statutory provision as providing 100% of the participants' salaries and benefits (other than education awards). 42 U.S.C. § 12572(a)(8).

Professional Corps programs, under this statutory definition, may neither seek reimbursements nor elect to offer an alternative policy of a specific market value. This recognizes the fact that Professional Corps programs, by design, enroll employees whose benefits (other than the education award) are outside the scope of Corporation assistance and are not subject to the statutory provisions governing living allowances and health care. For this reason, Professional Corps programs may offer AmeriCorps members a benefits package without regard to the statutory requirements applicable to other AmeriCorps programs.

**C. 72. Where can I find out about creating reasonable accommodations for people with disabilities? When does an accommodation become not reasonable?**
The vast majority of accommodations are inexpensive. For those cases where reasonable accommodations are more costly, there is a limited amount of money available through state commissions to provide accommodations for service members. The Office of Disability Employment Policy operates a toll-free, confidential, free resource for employers on reasonable accommodation requirements and options for accommodating employees at (800) 526-7234 (voice/TTY), e-mail at JAN@jan.icdi.wvu.edu, or website at www.jan.wvu.edu.

Accommodations that impose an undue financial or administrative burden on the operation of the program or fundamentally alter its nature are not reasonable accommodations. However, the grantee must document and prove any undue burden. Similarly, a person who poses a direct threat to the health or safety to himself or herself or to others, where the threat cannot be eliminated by reasonable accommodation, is not a qualified individual with a disability. In such instances the grantee must document and prove the direct threat.

In a few cases, you may receive requests for accommodations that you believe are unduly disruptive to your program or are too expensive. Under the Rehabilitation Act and the terms of your grant or agreement with the Corporation, you must provide accommodation, upon request by a qualified individual with disabilities, unless doing so is an undue financial or administrative burden to your program. This is a very high standard. Not being easily achievable does not meet this standard. Being difficult to achieve, time-consuming, or costly, do not meet this standard.

In addition, there are many factors that go into evaluating the obligation to provide accommodations. Undue administrative burden means the accommodation will alter the fundamental nature of your program. For example, adjustment of hours is often a form of reasonable accommodation. However, you must carefully consider the circumstances and the legal requirements when adjusting hours for participants. AmeriCorps State and National programs have statutory requirements regarding service hours, and changes to hours that violate these requirements alter the fundamental nature of the program. Therefore, these changes are not required for reasonable accommodation and providing them may violate the Corporation's statute.

You must determine if your program has consistently applied these requirements to all your participants. Strict adherence to the legal requirements to deny a person an accommodation for his or her disability when flexibility is allowed for others is discrimination because of disability.

*How does a member file a disability discrimination claim?*
Every grantee of the Corporation is required to have a grievance procedure for resolving disputes by participants. Except for AmeriCorps VISTA, your grievance procedure may include or exclude discrimination claims (failure to provide reasonable accommodation is

a discrimination claim, and AmeriCorps VISTA excludes all discrimination claims from its grievance process).

Regardless of your decision in this regard, any participant may file a discrimination claim with the Corporation's Office of Civil Rights and Inclusiveness. That Office can be reached at (202) 606-7503, (202) 606-3472 (TTY), (202) 606-3465 (FAX), or eo@cns.gov. If you choose for all discrimination claims to be filed under your grievance procedure, it is recommended that you call upon the expertise of colleagues in the disability community to assist you in evaluating grievances.

**C. 73. What are my obligations to comply with federal law and Corporation policy on non-discrimination?**

***Obligation to Cooperate.*** The grantee must cooperate with the Corporation so that the Corporation can ensure compliance with the civil rights statutes and implementing regulations. The grantee shall permit access by the Corporation during normal business hours to its books, records, accounts, staff, members, facilities, and other sources of information as may be needed to determine compliance.

***Discrimination Complaints,*** Investigations and Compliance Reviews. The Corporation may review the practices of the grantee to determine civil rights compliance.

Any person who believes discrimination has occurred may file a discrimination complaint with the Corporation's Equal Opportunity Office. The grantee may not intimidate, threaten, coerce, or discriminate against an individual to interfere with a right or privilege secured by the civil rights acts or because the person made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing. The Corporation will keep the identity of complainants and witnesses confidential except as necessary to conduct an investigation, hearing, or judicial proceeding.

The Corporation will investigate whenever a compliance review, report, complaint, or other information indicates a possible failure to comply with the statutes and their implementing regulations. If an investigation indicates a failure to comply, the Corporation will so inform the grantee and any applicable subgrantees and will attempt to resolve the matter by voluntary means. If the matter cannot be resolved by voluntary means, the Corporation will initiate formal enforcement action.

Discrimination complaints may be raised through the grantee's grievance procedure. Use of the grantee's grievance procedure may not be a required precursor to filing a federal discrimination complaint with the Corporation. Use of the grantee's grievance procedure does not preclude filing a federal discrimination complaint. The grantee's grievance procedure should advise members that use of the grievance procedure does not stop the running of Corporation time frames for filing a discrimination complaint with the Corporation. In all cases where discrimination allegations have been raised with the grantee, the grantee must submit a written report to the Corporation's Equal Opportunity

Office, which has review authority over the investigation and disposition of all discrimination complaints.

***Self-Evaluation Requirements.*** The grantee must comply with (1) the self-evaluation requirements under section 504 of the Rehabilitation Act regarding accessibility for individuals with disabilities; (2) the self-evaluation requirements of the Age Discrimination Act of 1975; and (3) the self-evaluation requirements under title IX of the Education Amendments of 1972 regarding discrimination based on sex. Guidance regarding the self-evaluation requirements may be obtained from the Corporation's Equal Employment Opportunity Office, 1201 New York Avenue, NW, Washington, D.C. 20525, (202) 606-7503; (202) 606-3472 (TTY); (202) 565-2816 (FAX); or eo@cns.gov (e-mail).

***Applicable Statutes.*** In accordance with its assurances, the grantee must comply with all federal statutes relating to non-discrimination to the extent applicable, including, but not limited to titles VI and VIII of the Civil Rights Act of 1964 (42 U.S.C.§2000d and 3601 *et seq*.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C.§794), title IX of the Education Amendments of 1972 (20 U.S.C.§1681 *et seq.*) the Age Discrimination Act of 1975 (42 U.S.C.§6101 *et seq*.), the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), the Public Health Service Act of 1912 (42 U.S.C.§290dd-3 and 290ee-3), and the requirements of any other non-discrimination provision in the National and Community Service Act of 1990, (42 U.S.C.§12635), or any other applicable non-discrimination provision.

**C. 74. Is the AmeriCorps living allowance considered income for determining TANF eligibility for AmeriCorps members?**

Yes. The National and Community Service Act of 1990 provides that allowances, earnings, and payments to participants in AmeriCorps State and National programs "shall not be considered income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any federal or federally-assisted program based on need, other than as provided under the Social Security Act (SSA)." Temporary Assistance for Needy Families (TANF) is a block grant program provided under the SSA. Because TANF is under the SSA, the AmeriCorps State and National living allowance may be considered income for the purposes of determining eligibility for and the amount of aid under TANF.

**C. 75. What are the requirements for member evaluations for EAPs? What is the requirement for EAPs regarding member evaluations?**

EAPs are required to comply with the member evaluation regulation, which is designed to ensure that members are evaluated sufficiently to determine eligibility for a subsequent of service. Here is the regulation:

45 CFR § 2522.220 What are the required terms of service for AmeriCorps participants, and may they serve for more than one term?

(c) *Eligibility for second term.* A participant will only be eligible to serve a subsequent term of service if that individual has received satisfactory performance review(s) for any previous term(s) of service in accordance with the requirements of paragraph (d) of this section. Mere eligibility for a second or further term of service in no way guarantees a participant selection or placement.
(d) *Participant performance review.* For the purposes of determining a participant's eligibility for a second or additional term of service and/or for an AmeriCorps educational award, each AmeriCorps program will evaluate the performance of a participant mid-term and upon completion of a participant's term of service. The end-of-term performance evaluation will assess the following:

(1) Whether the participant has completed the required number of hours described in paragraph (a) of this section;
(2) Whether the participant has satisfactorily completed assignments, tasks or projects; and
(3) Whether the participant has met any other performance criteria which had been clearly communicated both orally and in writing at the beginning of the term of service.

Is there a standard format for mid-term and final member evaluations?
The minimum requirements for mid-term and final evaluation are stated in the regulation, above. Grantees may determine the format and contents of their evaluation to meet their needs and the needs of their members as long as these minimum requirements are in place.

How should programs document that member evaluations occurred?
Programs should maintain written documentation that the member received the mid-term and final evaluation as described in the regulations, i.e. whether the participant has completed the required number of hours; satisfactorily completed assignments, tasks or projects; and has met any other performance criteria which had been clearly communicated both orally and in writing at the beginning of the term of service.

Are programs required to conduct mid-term evaluations for members that serve less than half time?
No. Programs are not required to conduct mid-term evaluations for members that serve less than half-time.

Are programs required to determine the results of a member's evaluation from a previous term of service?
It is important to ensure that a member who served previously is eligible to serve in your program, and you should make a reasonable effort to gather that information. If the member received an education award, you may assume the member served satisfactorily in the previous term. If the member was released for cause without receiving an education award, and you do not check with the program with which the member formerly served, you run the risk of enrolling an ineligible member. In this case some or all of the costs associated with that member can be disallowed. The My AmeriCorps Portal includes evidence of member's past service.

Is this policy change retro-active? In other words, will my EAP program be audited on the basis of the regulations or the Provisions that were in effect at the time the program was in operation?
The Corporation management holds EAP programs harmless for non-compliance if they were in compliance with the Grant Provisions issued with their grant. The new requirement applies to grants awarded in 2008 and forward.

**C. 76. What is the HEART Act and how does it affect AmeriCorps members?**
The HEART Act contains a provision that excludes AmeriCorps benefits from being counted as income for purposes of eligibility for Supplemental Security Income (SSI). This extends the long-time AmeriCorps VISTA income disregard for SSI to all AmeriCorps positions. While the law does not extend to Social Security Disability Insurance (SSDI), it removes a significant barrier to participation for SSI recipients. Additional information and resources are posted here.

**C. 77. Are members who receive their living allowance in the form of a wage paid with match funds or funds outside of the grant eligible to receive SSI HEART Act benefits?**
There is nothing in the law to suggest that the manner in which AmeriCorps benefits are distributed would impact the applicability of the HEART Act's amendment directing SSI to ignore AmeriCorps benefits when determining eligibility for SSI. In other words, whether the member is receiving a living allowance in the standard form or as a wage, if it is an AmeriCorps benefit, SSA will ignore it for the purposes of determining eligibility for SSI.

**C. 78. How do Supplementary Security Income (SSI) rules affect AmeriCorps members?**
Supplemental Security Income (SSI) is a federal program that provides a monthly cash benefit to low-income individuals who are aged, blind, or who have a disability. Prior to the passage of the Heroes Earnings and Relief Tax Act of 2008 (HEART Act), receiving an AmeriCorps living allowance could disqualify an individual from eligibility. Under the HEART Act, the Social Security Administration will ignore an individual's receipt of AmeriCorps benefits for purposes of SSI eligibility. The Heart Act excludes "any benefit (whether cash or in-kind)" and so covers the living allowance, health insurance, child care, and the education award (and related interest payments).

Additionally, SSI recipients who serve in AmeriCorps State and National and National Civilian Community Corps automatically qualify for the Student Child Earned Income Exclusion if they meet applicable age and marital status requirements.

SSI recipients who are (1) under the age of 22 and (2) neither married nor the head of a household are eligible for the student earned income exclusion, which excludes from countable earned income $1,290 per month and up to $5,200 per year (amounts as of January 1, 2001). This exclusion may be combined with existing SSI work incentives and other income disregard rules, which should encourage more young people with

disabilities to participate in AmeriCorps State and National and NCCC. Note that the Student Child Earned Income Exclusion policy change does not affect AmeriCorps VISTA members, whose benefits are already fully excluded from income under section 404 of the Domestic Volunteer Service Act.

Any portion of an education award used by an SSI recipient to pay for tuition, fees, and other necessary education expenses (not including room and board, or repaying student loans) will not count as income. Any portion of the education award that is not used for tuition, fees, or other necessary educational expenses counts as income in the month that it is used. For general questions about SSI or the terms used in this answer, go to http://www.ssa.gov/ssi/index.htm.

**C. 79. Is service in AmeriCorps considered an allowable work activity under Temporary Assistance to Needy Families (TANF)?**
Yes. In the June '06 Federal Register Notice, AmeriCorps and VISTA are explicitly listed as an example of community service meeting the definition of an allowable work activity.

**C. 80. Do AmeriCorps benefits count as income in determining eligibility for other federal government benefits?**
The answer depends upon the federal benefits program in question. The National and Community Service Act of 1990 (NCSA) provides that allowances, earnings, and payments to participants in AmeriCorps programs "shall not be considered income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any federal or federally assisted program based on need, other than as provided under the Social Security Act."

The Heroes Earning Assistance and Relief Tax Act of 2008 provided that AmeriCorps benefits, including the living allowance, health insurance, child care, and the education award (and related interest payments) are excluded from countable income for determining eligibility for Supplemental Security Income (SSI).

Therefore, if the benefits program is federally-funded and is based on need, and is not provided under the Social Security Act (other than SSI), AmeriCorps State and National benefits should not affect an AmeriCorps member's eligibility for such assistance. Examples include Food Stamps, Pell Grants, HUD housing programs, and VA benefits.

If, on the other hand, the benefits program is not federally-funded, not need- based, or is provided under the Social Security Act (other than SSI); the member's eligibility for those benefits might be affected. The member should contact the relevant state or federal agency responsible for the program in question, or the state commission, to get a determination. Examples of benefits that might be affected by AmeriCorps benefits are Temporary Aid for Needy Families (TANF), Medicaid, Medicare, and SSDI.

**C. 81. Are programs required to provide health care insurance for members on Medicaid?**
You must provide health care coverage to all full-time AmeriCorps members even if they are eligible for Medicaid. The U.S. Department of Health and Human Services (HHS) has taken the position that members receiving Medicaid have coverage available to them through AmeriCorps. Because Medicaid "wraps around" other available health care coverage, Medicaid will pick up only those costs that are not covered under the AmeriCorps policy. Members who remain on TANF will continue to receive Medicaid for their dependents. Members who lose TANF due to the living allowance usually can continue to receive extended Medicaid coverage for their dependents for up to one year. Applicants receiving these benefits should consult with their caseworkers before enrolling in AmeriCorps.

**C. 82. Are programs required to provide Accidental Death and Dismemberment Insurance?**
Programs are responsible for ascertaining whether state law requires the provision of Workers' Compensation for members. In states where Workers' Compensation is not required, you must obtain Accidental Death and Dismemberment (ADD) insurance to cover any member who is injured or killed in a service-related accident. The Corporation does not endorse any particular provider of ADD insurance.

There is no minimum requirement for ADD insurance; however, programs should be sure that the ADD insurance is sufficient to cover in-service injuries or accidents. If a member is injured on the job, that member could hold the program responsible. There have been situations where the program didn't have the required ADD insurance and faced medical bills for an injured member. While ADD insurance is an allowable cost, medical and legal bills resulting from not having ADD insurance aren't.

**C. 83. Are programs required to provide post-service job referrals to members?**
Programs are not required to provide job referrals for members as they near the end of their service. Programs are expected to work with their members throughout the year and especially toward the end of the term of service on advancing members' career and educational goals. Activities can range from offering assistance with resume writing and preparation of college applications, to working with local employers to arrange job interviews or job placements.

**C. 84. May I release members' names and/or photographs to the press?**
Program directors must have the written consent of members before disclosing their names or photographs to the press or releasing personal information about them.

**C. 85. Does the sunsetting of Welfare to Work change the rule on compelling personal circumstances?**
45 CFR 2522.230(a)(5)(ii) states that "[c]ompelling personal circumstances do not include leaving a program…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."

Does the fact that the federal Welfare to Work program sunsetted in 2004 change this rule?
No. When this section was first written in 1999, the federal Welfare to Work program was still in effect. However, the section does not specifically reference the federal Welfare to Work program. Rather, "acceptance by a participant of an opportunity to make the transition from welfare to work" is a compelling personal circumstance recognized by the Corporation for policy reasons. 45 CFR 2522.230(a)(4)(ii)(B).

AmeriCorps can serve as a pathway to long-term employment, and the Corporation encourages individuals who have been receiving public support to take opportunities to become economically independent. The Corporation would not want such an individual to relinquish that opportunity out of fear of a negative performance evaluation or loss of a pro-rated education award. For an individual to be released for compelling personal circumstances for this reason, the program would need to determine that the individual was receiving welfare, and had obtained employment as part of an effort to become self-sufficient.

**C. 86. Under what circumstances may state commissions or parent organizations approve conversion of a filled slot?**
State Commissions and parent organizations may approve occasional changes of currently enrolled members to lesser-term slots. Impact on program quality should be factored into approval of requests. The Corporation will not cover health care or childcare costs for less than full-time members.

It is not allowed to transfer currently enrolled members to a lesser-term status simply to provide a pro-rated education award if the member would otherwise be released for cause. It is also not allowed to convert a slot to a lesser-term slot at the end of a member's term of service in order to award a pro-rated education award when the member has not completed the hours required by their original term.

Changing less than full-time members to a greater slot type is discouraged because it is very difficult to manage, unless done very early in the member's term of service. State commissions and parent organizations may authorize or approve such changes so long as their current budget can accommodate such changes. Keep in mind that a member's minimum 1700 hours must be completed within 12 months of the member's original start date.

**C. 87. How many previously-served terms need to be checked for satisfactory service?**
An AmeriCorps member can now serve up to four terms. How many previously-served terms need to be checked to see if the member served satisfactorily before enrolling him or her in a new term of service?
Programs only need to check the most recently completed term of service for satisfactory completion. It is reasonable to assume that the program that enrolled the member prior to

the previous term also exercised due diligence and did not allow the member to serve if he/she had not completed the previous term satisfactorily.

*D. Program Management*

**D. 1. What is the policy regarding the purchase of member service gear?**
Grantees are encouraged to provide the basic AmeriCorps service gear package for each member (t-shirt, sweatshirt, hat, lapel pin). The grantee should direct members to wear their service gear at officially designated AmeriCorps events and may allow members to wear their service gear at other times consistent with Corporation guidelines. All member service gear purchased with federal funds is required to include the AmeriCorps logo.

**D. 2. Can a member in an AmeriCorps State program serve in another state?**
This is an issue for the states to decide. The commission funding the out-of-state project needs to make sure that the commission of the state in which the service will be performed agrees to or is at least aware of the funding of that project by the other state. The funding state also needs be aware of the liability insurance issues that can arise when service is performed out of state, such as disaster relief activities. Few states have funded long-term projects in other states because of an unwillingness to spend state funds on out-of-state activities. However, states are allowed to set this policy for themselves.

**D. 3. Generally an AmeriCorps member is not considered an employee of the program in which he or she serves. Does this rule apply to Professional Corps members?**
While the general rule is that AmeriCorps members are not employees of the program in which they serve, Professional Corps members may, in many circumstances, actually be employees of the organization where they are placed. The National and Community Service Act authorizes Professional Corps to place qualified professionals in professional positions "in communities with an inadequate number of such professionals." The statute specifically authorizes "a salary in excess of the maximum living allowance," and the legislative history clearly anticipated that members would be "placed as professionals … in a community that cannot attract enough of these professionals." For example, AmeriCorps members may be placed as professional teachers in underserved schools. They receive a salary from the school at which they are teaching, and are on the staff of the school.
Reference: 42 U.S.C. 12572(a)(8); House Report no. 103-70.

**D. 4. How do I change slot types and transfer slots?**
Revised AmeriCorps State and National Approvals for Slot Conversion, Slot Release 3 of the My AmeriCorps Portal makes concrete several policy changes designed to devolve authority and responsibility to grantees and afford state commissions additional flexibility in managing their portfolios.

As of the October 7, 2011, Program Officers will no longer be required to provide prior approval for unfilled slot conversions and slot transfers, and for member changes of term of service that take place over 90 days from the first day the member serves.

State Commissions and parent organizations may approve occasional changes of currently enrolled members to lesser-term slots. Impact on program quality should be factored into the approval of requests. The Corporation will not cover health care or child care costs for less than full-time members unless they are serving in a full-time capacity and the program chooses to provide health care or child care assistance.

Slots are not allowed to be transferred across grant type or grant year. Slots eligible for refill are not allowed to be transferred.

State Commissions and parent organizations are not allowed to approve a member change in service to a lesser-term slot if the member would otherwise be released for cause. State Commissions and parent organizations may not approve a change to a lesser-term slot at the end of a member's term of service in order to award a pro-rated education award when the member has not completed the hours required by their original term.

Changing less than full-time members to a greater slot type is discouraged. State commissions and parent organizations may approve such a change as long as their current budget can accommodate the change.

State commissions are allowed to transfer slots ***among*** their state formula and competitive subgrantees without prior approval. They will not be allowed to transfer slots ***between*** competitive and formula grantees or vice versa. Commissions may not transfer funds among their competitive subgrantees.

Programs will continue to be allowed to convert a full-time position to up to three quarter-time positions. All conversions will be Trust neutral, are subject to availability of funds in the Trust, and will comply with all assumptions on which Trust prudence and continued solvency are predicated. ***The total number of MSYs and education award amounts in the grant may not increase as a result of the slot conversion.***

For example:
1 full-time member position (1 MSY) ***may*** be converted into 2 half-time slots (2 x .5 members = 1 MSY).
1 full-time member position ***may not*** be converted into 4 quarter-time positions as the education awards would total more than the original (4 X .2646); in this example, the maximum number of allowable quarter-time positions would be 3.

Here is a chart of MSY values:

| **Term of Service** | **MSY** |
|---|---|
| Full-time | 1.000 |
| Half-Time | 0.500 |
| Reduced Half Time | 0.3810 |
| Quarter Time | 0.2646 |
| Minimum Time | 0.2116 |

Grantees may also combine and convert less than full-time positions to full-time positions as long as such changes do not increase the total MSYs or total education award amounts awarded in the grant.

**D. 5. How do I change filled slots?**
Circumstances may arise within a program that necessitates 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.

***Full-time.*** State Commissions and Parent 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. The Corporation 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.

***Less than Full-time.*** Changing less than full-time members to full-time is discouraged because it is very difficult to manage, unless done very early in the member's term of service. State Commissions and Parent Organizations may authorize or approve such changes so long as their current budget can accommodate such changes. Keep in mind that a member's minimum 1700 hours must be completed within 12 months of the member's original start date.

***Notice to Childcare and Health Care Providers.*** The grantee must notify the Corporation's designated agents immediately in writing when a member's status changes, such that it would affect eligibility for childcare or health care. Examples of changes in status are converting a full-time member to less than full-time member, terminating or releasing members from service, and suspending members for cause for lengthy or indefinite time periods. Program directors should contact the AmeriCorps child care providers on child care related changes, and their health insurance provider about health insurance related changes.

**D. 6. How do I refill slots?**
Eligible AmeriCorps State and National programs that have fully enrolled their awarded member slots are allowed to replace any member who terminates service before completing 30 percent of his/her term (effective May 17, 2007) provided that the member who terminates 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 corporate resources are available in the national service trust to finance any member's education award, the Corporation will suspend refilling if either:

- total AmeriCorps enrollment reaches 97 percent of awarded slots
- the number of refills reaches five percent of awarded slots.

Grantees whose awards have special grant conditions under 45 CFR 2543.14 or 2541.120 are not eligible to refill positions. In order to be qualified to refill, grantees will be evaluated on the basis of the outcomes of Inspector General audits, site visits, and oversight by CNCS program and grants officers.

As of November 13, 2006, programs are allowed to convert one full-time position to up to three quarter-time positions. All conversions must be Trust neutral, i.e. not change the total education award amounts allocated to the grant, are subject to availability of funds in the Trust, and must comply with all assumptions on which Trust continued solvency are predicated.

This policy allows AmeriCorps slots to be converted in accordance with the grant award but without regard to the limitation therein on increasing the number of slots in the program. Thus, when converting a slot to one requiring fewer hours, the grantee is not limited to a one-for-one slot conversion, and may increase the number of members correspondingly. However, the total number of MSYs and education award amounts allocated to the grant may not increase as a result of the slot conversion.

Grantees may also combine and convert less than full-time positions to full-time positions as long as such changes do not increase the total MSYs or education award amounts allocated to the grant.

Any requests for changes that fall outside of the parameters set forth above must come to the Corporation for written approval with concurrence from the State Commission or Parent Organization.

**D. 7. What is the policy regarding transfer of slots from one state formula program to another?**
State commissions are allowed to transfer slots from one formula program to another in order to maximize enrollment and cost effectiveness.

**D. 8. May a program extend the maximum time available for a full-time member to complete his or her service if the member has a disability?**
The maximum periods for completion (12 months for full-time members; not more than two years for less than full-time members) are based on the statute (42 USC 12593(b)). A program may, however, determine that the member is eligible to be released for compelling personal circumstances and provide a pro-rated education award to the member when the member has reached the maximum period for completing service.

**D. 9. What are the requirements for tutoring curriculum in the NCSA as amended by the Serve America Act?**
Tutoring curriculum must be consistent with both state academic standards and the instruction program of the local education agency. Other tutoring requirements can be found in 45 CFR §§ 2252.900 – 2252.950.

**D. 10. What are the requirements regarding evaluation for AmeriCorps grantees?**
The regulations on evaluation for AmeriCorps grantees are here: 45 CFR §§ 2522.700-740.

As articulated in the AmeriCorps regulations 45 C.F.R. §§2522.500-.540 and .700-.740, **AmeriCorps National Direct grantees and AmeriCorps State Competitive grantees (with the exclusion of Education Award Program grantees) that receive an average annual CNCS grant of $500,000 or more** must conduct an independent evaluation to measure the impact of programs. An evaluation is considered ***independent*** if it uses an external evaluator who has no formal or personal relationship with, or stake in, the administration, management, or finances of the grantee or of the program being evaluated. An ***impact evaluation*** is designed to provide statistical evidence of the impact of the program compared to what would have happened in the absence of the program (i.e. evaluations that include a comparison or control group).

The $500,000 threshold is calculated by averaging the AmeriCorps grant funding amounts over the last three years the grantee has received CNCS funding at the time of the re-competition. The $500,000 threshold is based on CNCS funding, not the program's total budget with matching funds.

**AmeriCorps National Direct grantees and State Competitive grantees with average grants of less than $500,000, as well as all AmeriCorps Education Award Program grantees**, are required to conduct an evaluation, but may use an internal evaluator rather than an independent one. An internal evaluation is designed and conducted by qualified program staff or other stakeholders, such as board members, partners, or volunteer affiliates.

Evaluations of National Direct and State Competitive funded programs must cover at least one year of CNCS-funded service activity.

**AmeriCorps State Formula grantees** are required to complete the evaluation requirements as established by their respective State Service Commission. Applicants for State Formula grants should contact their State Commission for their grant evaluation requirements.

The AmeriCorps regulations can be found at http://www.gpoaccess.gov/ecfr.

In summary:

| ***If you are a…*** | ***The following evaluation requirements apply…*** |
|---|---|
| State Competitive grantee with an average annual CNCS grant under $500,000 | Internal or Independent Evaluation |
| State Competitive grantee with an average annual CNCS grant of $500,000 or more | **Independent Impact Evaluation** |
| National Grantee with an average annual | Internal or Independent Evaluation |

| | |
|---|---|
| CNCS grant under $500,000 | |
| National Grantee with an average annual CNCS grant of $500,000 or more | **Independent Impact Evaluation** |
| State and National Education Award Program (EAP) grantee, regardless of funding amount | Internal or Independent Evaluation |
| State Formula grantee | Evaluation as specified by your state commission |

**D. 11. Where can I find FAQs on the My AmeriCorps Portal?**
You can find the FAQs issued on the My AmeriCorps Portal here: https://www.nationalserviceresources.org/myamericorps-support-americorps-national-programs or https://www.nationalserviceresources.org/myamericorps-support-americorps-state-commission-and-sub-grantees.

**D. 12. Where can I find FAQs on the single match?**
FAQs on the single match, which is not described in statute or regulation, but in appropriations language each year, can be found here: http://www.nationalservice.gov/sites/default/files/upload/08_0227_single_match_faqs.pdf

**D. 13. Where can I find information on national performance measures?**
Information on performance measurement can be found here: https://www.nationalserviceresources.org/npm/ac

**D. 14. Where can I find FAQs on the Trust Rulemaking of 2010, including information transfer of the education award and number of terms a member can serve?**
Information about the Trust Rulemaking can be found here: http://www.nationalservice.gov/about/legislation/edward-m-kennedy-serve-america-act/rulemaking. The FAQs are here: http://www.nationalservice.gov/sites/default/files/page/14_1204_Trust_Rulemaking_FAQs_Final_121710.pdf

**D. 15. Can Tribes use Indian Health Service support as match for an AmeriCorps grant?**
No, Indian Health Service support may not be used as match because IHS is provided to all people that are members of a federally recognized tribe and does not have a fair market value.

### *E. For State Commissions*

The regulatory authority on this issue is in 2 CFR 225 Attachment B, Section 12 (b) (1) (former OMB Circular A-87, Attachment B, Section 11(i)).

### *F. Financial Management*

**F. 1. What is the Corporation policy regarding pre-award costs?**
A grantee may be reimbursed for pre-award costs only if they are incurred with the written approval of the Corporation's Office of Grants Management. To request such approval, grantees send requests to their Corporation grants and program officers. The request includes a brief justification for the costs to be incurred and indicates the desired effective date. The Office of Grants Management will issue a letter authorizing or denying the pre-award costs within three business days.

The Corporation is prepared to approve, where appropriate, the following types of pre-award costs: personnel expense and benefits, travel for staff and prospective members, equipment, supplies, contractual and consultant service, training for staff and prospective members, evaluation, and other program operating costs.

Because the Strengthen AmeriCorps Program Act specifically indicates that a national service position is approved when the Corporation issues a grant award, the Corporation cannot approve member living allowances and support costs, including FICA, workers' compensation, health care, and child care, as pre-award costs. Approval of pre-award costs does not authorize a grantee or sub-grantee to have AmeriCorps members begin serving. AmeriCorps members may only begin service after a grant award has been issued and may not count any hours served prior to the award being issued as part of their term of service.

All pre-award costs are incurred at the grantee's risk. The Corporation is under no obligation to reimburse a grantee for these costs if the grantee does not receive an award or if the award is less than anticipated and inadequate to cover such costs.

**F. 2. Can a salary rate charged to a grant for one individual vary according to duties?**
While such a situation is highly unusual, if an individual occupies two positions, each on a part-time basis that are established at different salary levels, the individual meets the qualifications for both positions, and the time spent in each position is adequately documented and approved, then it is possible to charge two different salary levels for the same individual. This situation should be clearly explained in the budget narrative and discussed with the Corporation grants officer to ensure approval.

**F. 3. Is a fiscal agent required to be bonded?**
Fiscal agents are not required to be bonded, however, good financial practices include bonding in order to minimize risk and liability.

**F. 4. Is the cost to attend a dinner or fundraising event sponsored by a grantee (e.g., $40 per ticket) an allowable cost?**
No. Meals are considered either entertainment and are not allowable costs under the Cost Principles. All costs related to fundraising, whether for an event that includes a meal or tickets or other costs are also unallowable. The cost of meals is generally allowable in the context of travel only and if the cost is consistent with the organization's travel or per diem policy.

**F. 5. May the cost of meals for a staff member only be charged to the grant as a direct cost when the staff member is on travel? For example, when staff members work late, can the cost of dinner be charged to the grant? Or can grant funds be used to purchase lunch for staff when a staff meeting goes from 9 a.m. to 3 p.m.?**
Meals for staff while they are on travel is an allowable cost. Otherwise meals are not generally an allowable cost. Under OMB Cost Principles at 2 CFR 215 and 225 (formerly Circulars A-87 and A-122), the grantee cannot charge meals for staff working late or lunch for staff working through normal lunch period. One recognized exception in the Cost Principles is for staff attending a conference or training activity that includes meals during a working session/activity.

**F. 6. Who determines the interest rate for excess cash advances, and how is it determined?**
Grantees should not draw funds in excess of their needs and thus, should not have excess cash advances according to 2 CFR 215 (formerly OMB Circular A-110) and OMB Circular A-102. This regulation and circular establish the conditions under which grant recipients must place advanced federal funds in interest bearing accounts in accordance with the Cash Management Improvement Act (31 CFR § 205). The interest rate is the rate of the financial institution holding the account. The Grantee may retain interest amounts up to $250 per year. Interest earned in excess of $250 must be reimbursed annually based on the rates in the interest bearing accounts. Excess funds not placed in an interest bearing account could be subject to the interest rates published in the federal register semi-annually by the U.S. Department of Treasury.

**F. 7. What is the guidance regarding the use of Corporation grant funds to join and support the AmeriCorps Alums?**
PDAT funds are available to state commissions for enhancing and sustaining high quality AmeriCorps State and National Programs. To the extent that AmeriCorps Alums provides training and technical assistance that meets the state commission's goals and is consistent with the financial requirements of PDAT, using AmeriCorps Alums staff as training providers is an allowable expense. Likewise, to the extent that the state commission has chosen to provide scholarships for program staff and members to attend conferences that it deems appropriate, providing scholarships for program staff and members to attend the annual AmeriCorps Alums conference would also be an allowable expense. PDAT funds may not be used to cover membership costs for members or recent alums to join the AmeriCorps Alums.

Administrative funds are available to state commissions to support their operation. In general, these funds may not be used to cover individual memberships in associations. However, the OMB cost principles generally assume individuals are employees of the organization. AmeriCorps members are not employees. Therefore, a member's individual membership in an organization can be an allowable expense if the benefits derived from that membership are consistent with the program's and the individual member's development objectives. If a state commission decides that memberships are consistent

with their overall objectives, then using Administrative grant funds to pay for membership in the AmeriCorps Alums would be an allowable expense.

State commissions may choose to allow subgrantees to pay AmeriCorps Alums costs for their current members. If you choose to allow your subgrantees to include such costs in their grant budgets, you will need to ensure that membership in AmeriCorps Alums meets specific objectives under the grant. If you choose to allow the costs, instruct your subgrantees to include them in Section I, Part G-2 of the budget, Member Training. In no case may the fees paid to the AmeriCorps Alums be used to support lobbying.

**F. 8. If a program budgeted for membership in an association for AmeriCorps members, at what point in the service year should we enroll the members in that association? May we wait until the end of the service year to enroll them?**
When members are allowed to be enrolled depends on the member developmental activities. If the association's benefits will apply to program activities/leaning that spans beginning to end of service, then they should be enrolled as service begins. If the benefits apply to moving from service into post-service world, then enrollment could occur towards the end of service. There is no requirement that the annual membership derived from the enrollment totally fall only during the program year, however, enrolling literally at the end of service (as they exit) would have no direct program benefit and therefore would not be an allocable cost to the grant.

**F. 9. How and when are we to apply for no-cost extensions to the grant period?**
Unless otherwise specified, Corporation for National Service grants are issued for a three-year project period (36 months). Programs must apply for a one-time no-cost extension <u>before</u> the end of the three-year project period.

According to 45 CFR § 2543.25, the Corporation can authorize a one-time extension for up to 12 months. If a grantee determines that it will not be able to complete its project before the end of the three-year project period, the grantee must request an extension in writing with supporting reasons and the revised expiration date to the assigned program officer, with a copy sent to the grants officer. The program officer will initiate the amendment, which will go through a certification process that could take up to ten business days. For more information on this subject please see the Grant Provisions or call your program officer.

**F. 10. If we have slots available, may we enroll additional members during the period of a no-cost extension?**
No, you may not enroll new members during the period of a no-cost extension. The no-cost extension is available only to allow existing members to complete their service.

**F. 11. How long are programs required to retain grant records?**
In general, you must keep all records for a period of three years from the date you submit the final federal financial report for the three-year project period, or in the case of EAPs, the final project report. If an audit is started before the expiration of the three-year period,

the records must be retained until the audit findings involving the records have been resolved and final action taken. More details are available in 45 CFR § 2541.420.

**F. 12. What are the requirements for accounting for program income?**
FAQs regarding program income can be found here.
http://www.nationalservice.gov/sites/default/files/documents/08_0930_sc_ffr.pdf

**F. 13. Are federal funds allowed to be used as match?**
With certain caveats, grantees operating an AmeriCorps subtitle C program may use federal funds to meet its matching requirement.

First, the fact that legislation permits the use of non-Corporation federal funds as match is not, by itself, determinative. There must be independent authority for a grantee to use other federal funds in connection with a national service program. For example, if a grantee proposes to use Department of Education Title I funds as match, we refer the grantee to the Department of Education for a determination of whether such use is permissible under the Title I program.

Second, the national service legislation does not prohibit a grantee from using other federal funds in place of the Corporation's share, subject to the first caveat. For example, we would not prohibit a grantee from using other federal funds to pay the living allowance. Third, we do not permit a grantee to use the same funds as match for two federal grants. See 45 CFR § 2541.240(b)(3), 45 CFR § 2543.23(a)(2).

**F. 14. May a grantee use direct community service as match?**
Because the purpose of AmeriCorps is to enable and stimulate volunteer community service, the grantee may not include the value of direct community service performed by volunteers as match. However, the grantee may include the value of volunteer services contributed to the organization for organizational functions such as accounting, audit work, legal work, or training as match.

**F. 15. May I use CNCS funds to match another grant from CNCS?**
No. For example, you may not use a Learn and Serve America grant as match for AmeriCorps State and National funds.

**F. 16. If we have a number of programs closing out on different dates, should we hold them all until the last date? Or should we submit them as they come in?**
Grantees determine how to close out their subgrant programs. The Corporation closes out the direct grant to a Commission or a multi-state organization only. The grantee is required to certify that it has closed its subgrants and submits the certification to the Corporation. You have 90 days after the end of your project period to close out your grant. The most important task for close out is to reconcile the amount you report on the Federal Financial Report with the amounts you report disbursed to the Department of Health and Human Services (HHS) and the amount you drew down from your HHS account. All three of these amounts must match.

## *G. Education Awards*

**G. 1. What must a member do to receive an education award?**
In order to receive an education award, a member must perform the minimum hours of service as required by the Corporation and successfully complete the program requirements as defined by the Program. For example, if successful completion of a full-time program requires 1,800 service hours, members in that particular program are not eligible for an education award simply upon completion of 1,700 hours. If a member is released from a Program for compelling personal circumstances, the member is eligible for a pro-rated education award based on the number of hours served, if it is at least 15% of the total required hours. Questions regarding authorized uses of the education award should be directed to the Corporation's National Service Trust Office.

**G. 2. Can a program exit a member who completed all their hours, but deduct funds from the education award, because the member did not complete all the requirements clearly stated in the member agreement?**
No, a program cannot reduce the education award in this manner. The education award is a benefit awarded for successfully completing a term of service. If a member did not successfully complete the requirements stated in the member agreement, the member should be exited for cause and receive no award. Partial awards are only available for members exited for compelling personal circumstances, and who have served at least 15% of their term. Reference: 42 USC 12603

**G. 3. May the education award be used to pay a "Parent's Plus" student loan that a parent has taken out in order to pay the tuition of a child?**
No, the education award may not be used to pay off a parent's student loan. You can find a list of qualified student loans here.

**G. 4. Does the education award count as income for the purposes of calculating income tax?**
The Internal Revenue Service has ruled that the AmeriCorps education award is not excludable from income as (1) a scholarship under section 117(a) of the Internal Revenue Code or (2) a qualified educational assistance program under section 127(b) of the Code.

**G. 5. May a member use his/her education award to pay for school tuition incurred before the member begins his/her service?**
No. A member can pay back student loans accrued before they start service but not tuition or any other kind of school expenses (books, etc.).

**G. 6. What is the College Cost Reduction and Access Act of 2008**
The College Cost Reduction and Access Act of 2007 (CCRAA) was signed into law in September of 2007. It may offer AmeriCorps members significant benefits. The Act has two provisions with implications for members: the Income-based Repayment Plan (IBR) and the Public Service Loan Forgiveness Program.

The IBR Plan will make it easier for AmeriCorps members to pay back student loans while serving. Members who meet IBR's debt-to-income ratio threshold specified in the CCRAA will be able to make payments as low as $0 a month while serving in AmeriCorps.

CCRRA FAQs can be found here. In addition, you may find the following web sites helpful in learning more about IBR and Public Service Loan Forgiveness: Department of Education, Equal Justice Works, National Association of Student Financial Aid Administrators, FinAid.org, EdFund.org. Federal Student Aid, IBR Info, Student Loan Borrower Assistance.