**2020-21 NEW YORK STATE americorps member Service contract**

**I. INTRODUCTION AND PURPOSE**

This is an agreement between       **(INSERT AMERICORPS MEMBER NAME HERE)** ((hereafter the member) and       **(INSERT GRANT RECIPIENT ORGANIZATION NAME)** (hereafter the Program)**.** It is the purpose of this agreement to delineate the terms, conditions, and rules of membership regarding the member’s participation in the      **(INSERT PROGRAM NAME HERE)** AmeriCorps Program (hereinafter referred to as the Program).

**II**. **MEMBER ELIGIBILITY REQUIREMENTS**

To be eligible to participate as an AmeriCorps member, one must meet the eligibility requirements in 45 CFR § 2522.200, 2522.110(b)(3) or (g) and 2540.202 which are included in Appendix A. In general, one must be:

1. At least 17 years of age at the commencement of service or an out-of-school youth 16 years of age at the commencement of service participating in a program described in 45 CFR § 2522.110(b) (3) or (g).
2. Have a high school diploma or its equivalent; or not have dropped out of elementary or secondary school to enroll as an AmeriCorps participant and must agree to obtain a high school diploma or its equivalent prior to using the education award.
3. Must be a citizen, national, or lawful permanent resident alien of the United States. The following are some of the acceptable primary forms for certifying status as a U.S. citizen or national and/or lawful permanent resident alien of U.S.:

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

(2) A United States passport;

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

(4) Secondary documentation of citizenship or immigration status. If primary documentation is not available, the program must obtain written approval from the Corporation for National and Community Service (hereafter the Corporation) that other documentation is sufficient to demonstrate the individual’s status as a U.S. citizen, U.S. national, or lawful permanent resident alien.

1. An AmeriCorps member must satisfy the National Criminal History Check eligibility criteria pursuant to 45 CFR § 2540.202.

**III. NATIONAL SERVICE CRIMINAL HISTORY CHECKS**

1. The Program will conduct National Service Criminal History Checks for individuals in covered positions per 45 CFR § 2540.205 (See Appendix A).
2. Through signature of this document, the member authorizes the program to conduct a sex offender, criminal background check, including a state registry check and an FBI criminal history check, and the appropriate sharing of the results of the checks within the program. The member understands that:
   1. A criminal or juvenile record may, but will not necessarily, disqualify that individual from participating in the program. The program will decide on a case-by-case basis in accordance with local laws, service partner policies, and program policies. Selection is contingent upon the results of the checks and members have the right to contest the results of the criminal background check.
   2. An individual is ineligible to serve if the individual is registered or required to be registered on a state’s sex offender registry or the National Sex Offender Registry.
   3. An individual is ineligible to serve if the individual has been convicted of murder.
   4. An individual is ineligible to serve if the individual refuses to consent to National Service Criminal History Checks.
   5. An individual is ineligible to serve if the individual makes a false statement in connection with a criminal history check described in 45 CFR § 2540.203 (see Appendix A).

C.     (**INSERT MEMBER QUALIFICATIONS THAT ARE SPECIFIC TO YOUR AGENCY OR AMERICORPS PROGRAM IF APPLICABLE OR REMOVE THIS FIELD. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

**IV. TERM OF SERVICE**

1. The member’s term of service begins on       **(INSERT TERM OF SERVICE START DATE)** and ends on       **(INSERT TERM OF SERVICE END DATE)**.
2. To complete the term of service successfully (as defined by the Program and consistent with regulations of the Corporation for National and Community Service) and to be eligible for an AmeriCorps education award, the member must:

a. Complete the duration of their term of service (as noted in A above);

b. Complete at least       (**INSERT # OF HOURS IN TERM**) (as noted in B above);

c. Satisfactorily complete pre-service training and the appropriate education/training that relates to the member’s ability to perform service;

d. Submit all required documents, including but not limited to timesheets and data collection reports;

e. Satisfactorily complete assignments, tasks, or projects; and

f. Meet any other criteria that were clearly communicated both orally and in writing at the beginning of the term of service.

g. To be eligible to serve a subsequent term of service the member must receive satisfactory performance reviews for any previous terms of service. The member’s eligibility for subsequent terms of service with the Program will be based on, at least, a mid-term and end-of-term evaluation of the member’s performance focusing on factors such as whether the member:

I. Completed the required number of hours;

II. Satisfactorily completed assignments, tasks, or projects; and

III. Meets any other criteria that were clearly communicated both orally and in writing at the beginning of the term of service.

h. The mere eligibility for an additional term of service does not guarantee selection or enrollment in a subsequent term.

2. The Program may release a participant from completing a term of service for compelling personal circumstances, as determined by the Program, or for cause, per 45 CFR § 2522.230 (see Appendix A).

B. The member will be enrolled in a       **(INSERT SLOT TYPE, i.e. Full Time, Half Time, Minimum Time, etc.)** service term, completing a minimum of       **(INSERT MINIMUM NUMBER OF SERVICE HOURS FOR SLOT TYPE)** service hours during the member’s term of service.

1. Although       **(INSERT MINIMUM NUMBER OF HOURS IN TERM)** is the minimum, commitment to the community overrides the minimum hour requirement and the member’s hours may exceed the minimum requirement.

C. The member’s typical service day will be       **(DESCRIBE A TYPICAL SERVICE DAY, I.E. DAYS PER WEEK, HOURS PER DAY, HOURS PER WEEK, ETC.)**

D. The member must serve a minimum of       **(INSERT PROGRAM-DETERMINED MINIMUM NUMBER OF SERVICE HOURS REQUIRED PER PAID PERIOD TO RECEIVE STIPEND PER PROGRAM POLICIES)** per pay periodto receive the AmeriCorps living allowance for each period.

E. The following are required service, training, or special events that the member is required to attend. Members will receive service hours for participation.

a. Annual AmeriCorps New York event (i.e. Kickoff or Service Summit)

b. I Love My Park Day

c. September 11 National Day of Service and Remembrance

d. Martin Luther King Jr. Day of Service

e.      **(INSERT ANY SPECIFIC EVENTS OR SERVICE DAYS THAT ARE SPECIFIC TO YOUR AGENCY OR PROGRAM, IF APPLICABLE, OR REMOVE THIS FIELD. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

F.      **(INSERT PROGRAM-SPECIFIC TERM OF SERVICE INFORMATION THAT IS SPECIFIC TO YOUR AGENCY OR AMERICORPS PROGRAM, IF APPLICABLE, OR REMOVE THIS FIELD. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

**V. MEMBER POSITION DESCRIPTION**

**(SEE ATTACHMENT A.)**

**VI. SUPERVISION**

1. Prior to member placement, signature of this contract, or starting the member’s term of service, a copy of the member position description will be added to this agreement as Attachment A.
2. The member will be assigned to a host site and will report to a host site supervisor. **(IF YOUR PROGRAM MODEL DOES NOT PLACE MEMBERS AT MULTIPLE SITES YOU MAY REMOVE THIS FIELD)**
3. Teleservice: Authorized member service hours must be on site and/or comply with the Program’s Teleservice Policy (Attachment F of this agreement).
4. **(INSERT PROGRAM-SPECIFIC SUPERVISORY INFORMATION THAT IS SPECIFIC TO YOUR AGENCY OR AMERICORPS PROGRAM IF APPLICABLE OR REMOVE THIS FIELD. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

**VII. BENEFITS**

1. The member will receive from the Program the following benefits:

1. A Living Allowance in the amount of       **(INSERT WEEKLY/BI-WEEKLY STIPEND AMOUNT)** to be paid       **(INSERT WEEKLY OR BI-WEEKLY).** (The living allowance is designed to helpmembers meet the necessary living expenses incurred while serving in the Program.The Program must not pay a living allowance on an hourly basis. It is not a wage and should not fluctuatebased on the number of hours the member serves in a given period. The living allowance is taxable, and Social Security, federal, state, MTA, and local income taxes will be deducted directly from the living allowance.)

2. Health Care Coverage (required for full-time members and less-than-full-time members serving in a full-time capacity).

a.      **(INSERT PROGRAM-SPECIFIC HEALTH CARE COVERAGE INFORMATION THAT IS SPECIFIC TO YOUR AGENCY OR AMERICORPS PROGRAM, IF APPLICABLE, OR REMOVE THIS FIELD. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

3. Child Care

a. Allowances will be administered by the Corporation child care provider and issued directly to the member’s childcare provider. To qualify, the member must:

I. Be serving in a full-time capacity;

II. Be the parent or custodian of a dependent under 13 years of age who resides with the member;

III. Have a family income that does not exceed the state’s income eligibility guidelines;

IV. Need child care assistance to serve in the program; and

V. Not be receiving child care assistance from any other source at the time of acceptance into the Corporation child care program.

b. If the member believes they qualify for AmeriCorps child care assistance, they should complete a Caregiver Application to determine eligibility. (See https://www.americorpschildcare.com for more information.)

c. If the member does not wish to apply for AmeriCorps child care benefits, they must indicate this by signing and dating a waiver of benefits.

4. Upon successful completion of the member’s term of service, the member will receive a Segal AmeriCorps Education Awardfrom the National Service Trust. For successful completion of       **(INSERT MINIMUM REQUIRED HOURS BASED ON SLOT TYPE)**, the member will receivean award of       **(INSERT EDUCATION AWARD AMOUNT BASED** **ON THEIR SLOT TYPE.)**

**SEGAL EDUCATION AWARD AMOUNTS FOR PROGRAM YEAR 2020-21**

|  |  |  |
| --- | --- | --- |
| **SLOT TYPES** | **MINIMUM # OF HOURS** | **AMOUNTS** |
| Full-time (FT) | 1,700 | $6,195.00 |
| Three Quarters Time (TQT) | 1,200 | $4,336.50 |
| Half-Time (HT) | 900 | $3,097.50 |
| Reduced Half-Time (RHT) | 675 | $2,360.00 |
| Quarter Time (QT) | 450 | $1,638.89 |
| Minimal-Time (MT) | 300 | $1,311.11 |

I. The award can be used to repay qualified student loans, pay the cost of current attendance at a qualified institution of higher education and/or pay expenses while participating in an approved school‐to‐work program as defined by the U.S. Departments of Labor and Education.

II. The award is subject to taxes in the year/s in which it is used, and the member will have up to seven years from his or her last day of service to use the education award.

III. A failure to disclose to the Program any history of having beenreleased for cause from another AmeriCorps program will render the member ineligible to receive theeducation award.

IV. The member may serve up to four terms of service with different AmeriCorps programs, but may earn no more than the aggregate value of two full‐time Segal Education Awards. If the member begins a term of service but fails to complete it for any reason, and that member has served at least 15% of the term, a member may receive a prorated education award, provided the member was not dismissed for cause. Members serving more than 15% of the term will have that term counted toward the maximum of four allowable terms. If a member serves less than 15% of the term of service, the term will not be recognized or counted toward the maximum of four allowable terms.

V. The member may request forbearance on qualified student loans by submitting a request through a My AmeriCorps online account.

* + - 1. Not all loans qualify for mandatory forbearance based on AmeriCorps enrollment. For example, private loans do not. It is up to the individual lending institution to grant the request.
      2. If the member has received forbearance on a qualified student loan during the term of service, upon successful completion of the program, the NationalService Trust will repay a portion of or all the interest that accrued on the loan during the term of service.

4.      **(INSERT ADDITIONAL PROGRAM-SPECIFIC MEMBER BENEFITS INFORMATION THAT IS SPECIFIC TO YOUR AGENCY OR AMERICORPS PROGRAM, IF APPLICABLE, OR REMOVE THIS FIELD. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

**VIII. MEMBER PROHIBITED ACTIVITIES, MEMBER UNALLOWABLE ACTIVITIES, AND RULES OF CONDUCT**

1. Federal AmeriCorps Member Prohibited Activities

1. While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the Program or the Corporation, staff and members may not engage in the following activities:

* + 1. Attempting to influence legislation;
    2. Organizing or engaging in protests, petitions, boycotts, or strikes;
    3. Assisting, promoting, or deterring union organizing;
    4. Impairing existing contracts for services or collective bargaining agreements;
    5. Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;
    6. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;
    7. Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;
    8. Providing a direct benefit to-
       1. A business organized for profit;
       2. A labor union;
       3. A partisan political organization;
       4. A nonprofit organization that fails to comply with the restrictions contained in section 501(c)(3) of the Internal Revenue Code of 1986 except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and
       5. An organization engaged in the religious activities described in paragraph (vii) of this section, unless Corporation assistance is not used to support those religious activities;
    9. Conducting a voter registration drive or using Corporation funds to conduct a voter registration drive;
    10. Providing abortion services or referrals for receipt of such services; and
    11. Such other activities as the Corporation may prohibit.

AmeriCorps members may not engage in the above activities directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed above. Individuals may exercise their rights as private citizens and may participate in the activities listed above on their own initiative, on non-AmeriCorps time, and using non-CNCS funds. However, individuals may not wear the AmeriCorps logo while doing so.

1. Unallowable Activities

1. An AmeriCorps member may spend no more than ten percent of his or her originally agreed-upon term of service, as reflected in the member enrollment in the National Service Trust, performing fundraising activities, as described in §2520.40. AmeriCorps members may participate in fundraising activities but ONLY under limited circumstances:

* + 1. Members may generate funds/resources directly in support of the AmeriCorps program’s service activities. Examples of fundraising activities members may perform include, but are not limited to the following:
       1. Seeking donations of books from companies and individuals for a program in which volunteers tutor children to read;
       2. Writing a grant proposal to a foundation to secure resources to support the training of volunteers;
       3. Securing supplies and equipment from the community to enable volunteers to help build houses for low-income individuals;
       4. Securing financial resources from the community to assist in launching or expanding a program that provides social services to the members of the community and is delivered, in whole or in part, through the members of a community-based organization;
       5. Seeking a donation from alumni of the program for specific service projects being performed by current members.
    2. AmeriCorps members may not:
       1. Raise funds for living allowances or for an organization's general (as opposed to project) operating expenses or endowment;
       2. Write a grant application to the Corporation or to any other Federal agency.

2. Nonduplication. Corporation assistance may not be used to duplicate an activity that is already available in the locality of a program. Unless the requirements of paragraph (F) of this section are met, Corporation assistance will not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency in which such entity resides.

3. Nondisplacement.

i. An employer may not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, because of the use by such employer of a participant in a program receiving Corporation assistance.

ii. An organization may not displace a volunteer by using a participant in a program receiving Corporation assistance.

* + 1. A service opportunity will not be created under this chapter that will infringe in any manner on the promotional opportunity of an employed individual.
    2. A participant in a program receiving Corporation assistance may not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.
    3. A participant in any program receiving assistance under this chapter may not perform any services or duties, or engage in activities, that—
       1. Will supplant the hiring of employed workers; or
       2. Are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures.
    4. A participant in any program receiving assistance under this chapter may not perform services or duties that have been performed by or were assigned to any—
       1. Presently employed worker;
       2. Employee who recently resigned or was discharged;
       3. Employee who is subject to a reduction in force or who has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;
       4. Employee who is on leave (terminal, temporary, vacation, emergency, or sick); or
       5. Employee who is on strike or who is locked out.

1. Rules of Conduct

1. While acting in an official capacity as an AmeriCorps member, the member is expected to:

* + 1. Comply with the rules and standards of the host agency;
    2. Demonstrate mutual respect toward others;
    3. Demonstrate professional, courteous conduct;
    4. Follow directions
    5. Attend service trainings and activities on time and ready to serve and learn;
    6. Maintain a physical appearance reflective of his or her role in the AmeriCorps Program;
    7. Direct concerns, problems, and suggestions to his or her assigned Host Site Supervisor.

2. The following acts also constitute a violation of the Program’s rules of conduct:

1. Unauthorized tardiness
2. Unauthorized absences
3. Repeated use of inappropriate language (i.e., profanity) at a service site
4. Failure to wear appropriate clothing to service assignments
5. Stealing or lying
6. Engaging in any activity that may physically or emotionally damage other members of the program or people in the community
7. Unlawful manufacture, distribution, dispensation, possession, or use of any controlled substance or illegal drugs during the term of service
8. Consuming alcoholic beverages during the performance of service activities
9. Being under the influence of alcohol or any illegal drugs during the performance of service activities
10. Failure to notify the program of any criminal arrest or conviction that occurs during the term of service

3. Under the Drug-Free Workplace Act, the member must immediately notify his or her supervisor and/or program director if s/he is convicted under any criminal drug statute. Member participation in the Program is conditioned upon compliance with this notice requirement, and the Program may take action for violation of this.

4. In general, for violating the above stated rules, the Program will do the following (except in cases where during the term of service the member has been charged with or convicted of a violent felony, possession, sale, or distribution of a controlled substance): **(INSERT PROGRAM PROCEDURES FOR VIOLATING STATED RULES. FOR EXAMPLE: FOR THE MEMBER’S FIRST OFFENSE, THE PROGRAM WILL ISSUE A VERBAL WARNING. FOR THE MEMBER’S SECOND OFFENSE, THE PROGRAM WILL ISSUE A WRITTEN WARNING, etc.)** The program will notify the member of any violation and action being taken in writing. Notification signed by both the member and the member’s supervisor(s) will be kept in the member’s file.

5. The member will be either suspended or released for cause in accordance with above paragraphs of this agreement for committing certain acts during the term of service.

D.      **(INSERT ADDITIONAL PROGRAM-SPECIFIC MEMBER PROHIBITED ACTIVITIES AND RULES OF CONDUCT INFORMATION THAT ARE SPECIFIC TO YOUR AGENCY OR AMERICORPS PROGRAM, IF APPLICABLE, OR REMOVE THIS FIELD. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

**IX. ATTENDANCE**

1. Time and attendance records are used to document member eligibility for in-service and post-service benefits. The Program must have a time and attendance recordkeeping system that is compliant with 2 CFR § 200.430 (see Appendix A).
2. In addition to the program’s organizational holidays, members may request personal days off during the program year to be used for illnesses, doctor’s appointments, childcare emergencies, bereavement, academic or career visits/interviews, or to observe a specific ethnic, religious, or cultural holiday not officially celebrated by the Program.

I. Members may request up to       personal days. **(INSERT MAXIUM NUMBER OF PERSONAL DAYS A MEMBER IS ALLOWED PER YOUR PROGRAM POLICIES. EDIT AS APPROPRIATE FOR YOUR PROGRAM IF THIS NUMBER OF DAYS VARIES BY SLOT TYPE. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

1. The member’s direct staff supervisor must receive requests for personal days at least       **(INSERT MIMIMUM NUMBER OF DAYS PER YOUR PROGRAM POLICIES)** to the date of a proposed absence.
2. In cases of illness or an emergency, the member must notify his or her direct staff supervisor of an unexpected absence or late arrival by the beginning of said work day.
3. An absence of       **(INSERT MIMIMUM NUMBER OF DAYS)** or more consecutive days without notice to the member’s host site supervisor will constitute abandonment and may result in suspension or dismissal; to be reviewed on a case by case basis.
4. **(INSERT ADDITIONAL PROGRAM-SPECIFIC MEMBER ATTENDANCE INFORMATION THAT IS SPECIFIC TO YOUR AGENCY OR AMERICORPS PROGRAM, IF APPLICABLE, OR REMOVE THIS FIELD. DO NOT ALTER OR REMOVE THE PREVIOUS LANGUAGE IN THIS SECTION.)**

**X. GRIEVANCE PROCEDURES**

1. The Program must establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance from the Corporation per 45 CFR § 2540.230 (see Appendix A). A grievance procedure may include dispute resolution programs such as mediation, facilitation, assisted negotiation and neutral evaluation. If the grievance alleges fraud or criminal activity, it must immediately be brought to the attention of the New York State Commission on National and Community Service (the Commission).
2. As a participant in the Program, the member may file a grievance in accordancewith the Program s grievance procedure.

**XI. THE PROGRAM HAS WRITTEN POLICIES THAT CAN BE FOUND IN THE ATTACHMENTS OF THIS DOCUMENT:**

1. Member Position Description
2. Drug-Free Workplace
3. Nondiscrimination Clause
4. Reasonable accommodation for members with disabilities
5. Teleservice Policy
6. Sample Health Care Coverage Form

**XII. AMENDMENTS TO THIS AGREEMENT**

This agreement may be changed or revised only by written consent from both parties.

**XIII. AUTHORIZATION**

The member and Program hereby acknowledge by their signatures that they have read, understand, and agree to all terms and conditions of this agreement. (If the member is under the age of 18 years old, the member’s parent or legal guardian must also sign.)

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| **AmeriCorps Member** | **AmeriCorps Program Director** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Signature** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Signature** |
| **Print Name** | **Print Name** |
| **Parent/Legal Guardian (*as necessary*)** |  |
| **Date** | **Date** |

**ATTACHMENT A**

**AMERICORPS MEMBER POSITION DESCRIPTION**

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| 1. **AmeriCorps Member Contact Information**   AmeriCorps Member Name:  AmeriCorps Member Phone:  AmeriCorps Member Email Address:  AmeriCorps Member Address: |

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| 1. **AmeriCorps Program Contact Information**   AmeriCorps Program Name:  AmeriCorps Program Address:  AmeriCorps Program Director Contact Information:  Name:  Title:  Phone:  Email: |

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| 1. **AmeriCorps Member Host Site**   AmeriCorps Member Host Site Name:  AmeriCorps Member Host Site Location:  AmeriCorps Member Host Site Supervisor Contact Information:  Name:  Title:  Phone:  Email: |

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| 1. **AmeriCorps Member Position Information**   AmeriCorps Member Position Title:  Purpose of the Program:  Community Needs that the Program Serves:  Values and Standards of the Program:  AmeriCorps Member Duties and Responsibilities:  How the AmeriCorps Member’s Role Aligns with the Organization:  Performance Goals for the AmeriCorps Member:  Goal 1:  Goal 2:  Goal 3: |

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| 1. **AmeriCorps Member Qualifications:**  * Is the member a High School graduate, GED recipient or working towards attaining a high school Diploma or GED? * Does member agree to obtain either a high school diploma or a GED before using their education award? * Does member agree to provide information to establish eligibility and to complete a National Criminal History Check as outlined in §2522.202? * Does member adhere to all member eligibility requirements in §2522.200(a) [[1]](#footnote-1)   List any specific qualifications for AmeriCorps member:  Skills/Knowledge/Training Necessary to be a successful AmeriCorps Member in this position:  Skills:    Knowledge:    Training: |

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| 1. **Term of Service**   Position Start Date:  Position End Date:  AmeriCorps Slot Type:  Schedule (Example: M-F 9:00 AM to 5:00 PM):  Number of Training Hours To be Met (As required by 45 CFR §2520.50):[[2]](#footnote-2)  List any national, state or local service projects or events that are included as part of service:  Describe orientation process and training for member on prohibited and unallowable activities:  Describe professional, personal, or service-related member development activities and training to be provided for member: |

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| 1. **Benefits**   Amount of the Segal AmeriCorps Education Award being offered for successful completion of the member’s term of service:  Amount of living allowance member will receive:  Healthcare coverage (if applicable):  Childcare coverage (if applicable):  Student loan forbearance and interest payments, (if the member qualifies): |

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| 1. **Evaluating and Reporting**   Dates member will be evaluated:  Reporting Requirements (Please Describe):   * Timesheets submitted       **(INSERT REQUIRED FREQUENCEY, I.E. WEEKLY/BI-WEEKLY)** * Monthly Data Reports: * Quarterly Narrative Reports: |

**ATTACHMENT B**

**DRUG-FREE WORKPLACE**

* + - * 1. In accordance with the Federal Drug-Free Workplace Act of 1988, the program is committed to maintaining a drug and alcohol-free environment. Members are therefore notified that:

1. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and places of service;
2. Actions, including termination from the program, will be taken against any member for violations of such prohibitions;
3. As a condition of service as an AmeriCorps Member:

* Members will abide by the terms of drug-free workplace policy; and
* Notify the program director in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than *five* calendar days after the conviction.

1. In joining AmeriCorps, the member agrees to remain drug-free for the remainder of the year.

As part of an ongoing member orientation and training, the program will inform members about:

* The dangers of drug abuse in the workplace and service area;
* The program’s policy of maintaining a drug-free workplace;
* Any available drug counseling, rehabilitation, and employee assistance programs; and
* The penalties that you may impose upon members for drug abuse violations occurring in the workplace or service area.

I have read and understand the Drug Free Workplace Policy:

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| --- | --- |
| **AmeriCorps Member** | **AmeriCorps Program Director** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Signature** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Signature** |
| **Print Name** | **Print Name** |
| **Date** | **Date** |

**(INSERT ANY ADDITIONAL PROGRAM-SPECIFIC REQUIREMENTS REGARDING MAINTAINING A DRUG-FREE WORKPLACE. FOR EXAMPLE, PROGRAMS MAY ELECT TO INCLUDE RANDOM OR MANDATORY DRUG TESTING.)**

**ATTACHMENT C**

**CIVIL RIGHTS COMPLAINT PROCEDURES AND RIGHTS OF BENEFICIARIES**

**NON-DISCRIMINATION PUBLIC NOTICE AND RECORDS COMPLIANCE**

1. Public Notice of Non-discrimination. The grantee must notify members, community beneficiaries, applicants, program staff, and the public, including those with impaired vision or hearing, that it operates its program or activity subject to the non-discrimination requirements of the applicable statutes. The notice must summarize the requirements, note the availability of compliance information from the grantee and CNCS, and briefly explain procedures for filing discrimination complaints with CNCS. Sample language is:

*This program is available to all, without regard to race, color, national origin, disability, age, sex, political affiliation, or, in most instances, religion. It is also unlawful to retaliate against any person who, or organization that, files a complaint about such discrimination. In addition to filing a complaint with local and state agencies that are responsible for resolving discrimination complaints, you may bring a complaint to the attention of the Corporation for National and Community Service. If you believe that you or others have been discriminated against, or if you want more information, contact:*

**(INSERT PROGRAM NAME, ADDRESS, PHONE NUMBER – BOTH VOICE AND TTY, PREFERABLY TOLL FREE – FAX NUMBER, AND EMAIL ADRESS OF THE GRANTEE);** or

*Office of Civil Right and Inclusiveness*

*Corporation for National and Community Service*

*1201 New York Avenue, NW*

*Washington, DC 20525*

*(800) 833-3722 (TTY and reasonable accommodation line)*

*(202) 565-3465 (FAX); eo@cns.gov (email)*

The grantee must include information on civil rights requirements, complaint procedures and the rights of beneficiaries in member service agreements, handbooks, manuals, pamphlets, and post in prominent locations, as appropriate. The grantee must also notify the public in recruitment material and application forms that it operates its program or activity subject to the nondiscrimination requirements. Sample language, in bold print, is This program is available to all, without regard to race, color, national origin, disability, age, sex, political affiliation, or, in most instances, religion. Where a significant portion of the population eligible to be served needs services or information in a language other than English, the grantee shall take reasonable steps to provide written material of the type ordinarily available to the public in appropriate languages.

2. Records and Compliance Information. The grantee must keep records and make available to CNCS timely, complete and accurate compliance information to allow CNCS to determine if the grantee is complying with the civil rights statutes and implementing regulations. Where a grantee extends federal financial assistance to subgrantees, the subgrantees must make available compliance information to the grantee so it can carry out its civil rights obligations.

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

**ATTACHMENT D**

**REASONABLE ACCOMMODATION FOR MEMBERS WITH DISABILITIES**

AmeriCorps encourages individuals with disabilities to participate as national service providers through the AmeriCorps programs. AmeriCorps prohibits any form of discrimination against persons with disabilities in recruitment, as well as in service. As a program that receives federal funds, the grantee agencycomplies with the requirements of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.

No qualified individual with a disability shall, by reason of disability, be excluded from participation in or be denied the benefits of the program, services, or activities of the program, or be subjected to discrimination by the program. Nor shall the program exclude or otherwise deny equal services, programs or activities to an individual because of the known disability of an individual with whom the individual is known to have a relationship or association. According to the ADA, the term “disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the individual’s major life activities, a record of having such an impairment, or being regarded as having such an impairment. “Major life activities” means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

A “qualified individual with a disability” is an individual with a disability who with or without reasonable accommodations meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the program. Reasonable accommodations may include modifying rules or policies; removal of architectural, communication, or transportation barriers, or provision of auxiliary aids/services.

The program shall make reasonable accommodations in policies, practices, or procedures when the accommodations are necessary to avoid discrimination on the basis of disability, unless the program can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity, and/or impose an “undue hardship”. A reasonable accommodation may include: making facilities readily accessible to and usable by individuals with disabilities; job restructuring; part-time or modified schedules; acquisition or modification of equipment or devices, training materials, or policies; etc. Members may request reasonable accommodations by completing the *Reasonable Accommodation Request Form*and submitting to the director.

**Confidentiality:** Information provided regarding her/his disability, by a potential Member or a Member shall be kept confidential, except that appropriate supervisors, managers, and safety and health personnel may be informed regarding any restrictions in service duties or necessary accommodations. Government personnel may be provided information in compliance with various laws and regulations.

**Self-Identification:** A potential Member or a Member with a disability is not required to disclose information about any physical or mental limitations, whether or not you believe it will interfere with your capability to perform the essential functions of the position sought or held. If you would like, however, for the program, to consider any special arrangements to accommodate a physical or mental impairment, you may identify that impairment, describe the functional limitations that result from that impairment, and suggest the type of accommodation that you believe would be appropriate. Medical verification of the condition may be requested for the member to be protected under Section 504 of the Rehabilitation Act.

**Grievances:** An individual whose request for an accommodation was denied may use the grievance procedure outlined in the Member Contract to appeal the decision and/or file a complaint with the Corporation for National and Community Service Equal Opportunity Office within forty-five days of the decision or forty-five days from when the member becomes aware of the decision.

**PROGRAM MUST DEVELOP A REASONABLE ACCOMMODATION REQUEST FORM AND A PROCESS FOR SUBMITTING REQUESTS FOR ACCOMMODATIONS.**

**ATTACHMENT E**

**TELESERVICE POLICY**

      (**INSERT PROGRAM-SPECIFIC TELESERVICE POLICY HERE. IF THE PROGRAM DOES NOT OFFER TELESERVICE OPPORTUNITIES, PLEASE STATE THAT HERE.**

**MEMBERS REQUESTING TELESERVICE ARRANGEMENTS UNDER THE AUSPICES OF REASONABLE ACCOMMODATION OF A DISABILITY ARE EXCLUDED FROM THIS POLICY, AS THOSE REQUESTS ARE COVERED UNDER OTHER LAWS AND POLICIES.**

**MEMBERS SHOULD GENERALLY BE PROVIDING SERVICE DIRECTLY TO THE PEOPLE AND IN THE COMMUNITIES WHERE THEY SERVE RATHER THAN PERFORMING SERVICE REMOTELY. THEREFORE, TELESERVICE SHOULD BE RARE, IF EVER, AND INVOLVE APPROPRIATE DOCUMENTATION AND SUPERVISION.**

**IF THE PROGRAM DETERMINES THAT ITS AMERICORPS MEMBERS WILL BE ALLOWED TO TELESERVE, THE PROGRAM MUST ESTABLISH A POLICY THAT ADDRESSES:**

**1. WRITTEN AUTHORIZATION IN ADVANCE;**

**2. EXPECTATIONS OF COMMUNICATION REQUIREMENTS BETWEEN SUPERVISORS AND TELESERVING MEMBERS;**

**3. MITIGATION OF INCREASED RISK OF TIME AND ATTENDANCE ABUSE;**

**4. APPROPRIATE SUPERVISION INCLUDING VALIDATION OF THE ACTIVITIES TO BE PERFORMED; AND**

**5. VERIFICATION OF HOURS CLAIMED.**

**THE PROGRAM SHOULD CONSIDER UPDATING ITS INSURNCE COVERAGE TO ADDRESS LEGAL LIABILITY ATTRIBUTION FOR INCIDENTS THAT MAY OCCUR DURING TELESERVICE.**

**THE PROGRAM SHOULD BE AWARE THAT ITS STAFF MAY BE SUBJECT TO LEGAL SANCTIONS FOR ERRONEOUSLY CERTIFYING THAT AMERICORPS MEMBERS HAVE SUFFICIENT VALID SERVICE HOURS TO COMPLETE THEIR TERMS OF SERVICE. IN ADDITION, THERE ARE LEGAL PENALTIES FOR KNOWLINGLY SUBMITTING FALSE CLAIMS TO THE GOVERNMENT.**

**ATTACHMENT F**

**HEALTH INSURANCE COVERAGE FORM**

**(INSERT A FORM DOCUMENTING THE MEMBER’S HEALTH CARE COVERAGE. THE PROGRAM MUST PROVIDE, OR MAKE AVAILABLE, HEALTH CARE INSURANCE TO MEMBERS SERVING IN A FULL TIME SLOT WHO ARE NOT OTHERWISE COVERED BY A HEALTH CARE POLICY AT THE TIME THE MEMBER BEGINS HIS OR HER TERM OF SERVICE. THE PROGRAM MUST ALSO PROVIDE, OR MAKE AVAILABLE, HEALTH CARE INSURANCE TO MEMBERS SERVING IN A FULL TIME SLOT WHO LOSE COVERAGE DURING THEIR TERM OF SERVICE AS A RESULT OF SERVICE, OR THROUGH NO DELIBERATE ACT OF HIS OR HER OWN.**

**LESS-THAN-FULL-TIME MEMBERS SERVING IN A FULL TIME CAPACITY FOR A SUSTAINED PERIOD OF TIME (I.E. A FULL-TIME SUMMER PROJECT) ARE ALSO ELIGIBLE FOR HEALTH CARE BENEFITS. THE PROGRAM MAY PROVIDE HEALTH INSURANCE TO LESS-THAN-FULL-TIME MEMBERS SERVING IN A FULL TIME CAPACITY, BUT THE PROGRAM IS NOT REQUIRED TO DO SO.)**

**APPENDIX A**

**45 CFR REGULATONS CITED IN THIS americorps new york member contract**

**§ 200.430 Compensation - personal services.**

(a)General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in [§ 200.431](https://www.law.cornell.edu/cfr/text/2/200.431) Compensation - fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and

(3) Is determined and supported as provided in [paragraph (i)](https://www.law.cornell.edu/cfr/text/2/200.430#i) of this section, Standards for Documentation of Personnel Expenses, when applicable.

(b)Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

(c)Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

(1)Non-Federal entity activities, and

(2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

(d)Unallowable costs.

(1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see [10 U.S.C. 2324(e)(1)(P)](https://www.law.cornell.edu/uscode/text/10/2324#e_1_P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.

(e)Special considerations. Special considerations in determining allowability of compensation will be given to any change in a non-Federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

(f)Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.

(g)Nonprofit organizations. For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination must be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include director's and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.

(h)Institutions of higher education (IHEs).

(1) Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under Federal awards. Among such conditions are the following:

(i) Allowable activities. Charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in [paragraph (i)](https://www.law.cornell.edu/cfr/text/2/200.430#i) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the Federal award budget or receive prior written approval by the Federal awarding agency.

(2)Salary basis. Charges for work performed on Federal awards by faculty members during the academic year are allowable at the IBS rate. Except as noted in [paragraph (h)(1)(ii)](https://www.law.cornell.edu/cfr/text/2/200.430#h_1_ii) of this section, in no event will charges to Federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of faculty at an institution. IBS is defined as the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award.

(3)Intra-Institution of Higher Education (IHE) consulting. Intra-IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the Federal awarding agency.

(4) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met:

(i) The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.

(ii) The non-Federal entity establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. This may be described in appointment letters or other documentations.

(iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See [paragraph (h)(2)](https://www.law.cornell.edu/cfr/text/2/200.430#h_2) of this section.

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-Federal entity.

(v) The total salaries charged to Federal awards including extra service pay are subject to the Standards of Documentation as described in [paragraph (i)](https://www.law.cornell.edu/cfr/text/2/200.430#i) of this section.

(5)Periods outside the academic year.

(i) Except as specified for teaching activity in [paragraph (h)(5)(ii)](https://www.law.cornell.edu/cfr/text/2/200.430#h_5_ii) of this section, charges for work performed by faculty members on Federal awards during periods not included in the base salary period will be at a rate not in excess of the IBS.

(ii) Charges for teaching activities performed by faculty members on Federal awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

(6)Part-time faculty. Charges for work performed on Federal awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments.

(7)Sabbatical leave costs. Rules for sabbatical leave are as follow:

(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the IHE.

(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.

(8)Salary rates for non-faculty members. Non-faculty full-time professional personnel may also earn “extra service pay” in accordance with the non-Federal entity's written policy and consistent with [paragraph (h)(1)(i)](https://www.law.cornell.edu/cfr/text/2/200.430#h_1_i) of this section.

(i)Standards for Documentation of Personnel Expenses (1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-Federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and

(vi) [Reserved]

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(viii)Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

(B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.

(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.

(2) For records which meet the standards required in [paragraph (i)(1)](https://www.law.cornell.edu/cfr/text/2/200.430#i_1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in [paragraph (i)(3)](https://www.law.cornell.edu/cfr/text/2/200.430#i_3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) ([29 CFR part 516](https://www.law.cornell.edu/cfr/text/29/part-516)), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, “rolling” time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in [paragraph (i)(5)(iii)](https://www.law.cornell.edu/cfr/text/2/200.430#i_5_iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of [paragraph (i)(1)](https://www.law.cornell.edu/cfr/text/2/200.430#i_1) of this section.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

[[78 FR 78608](https://www.law.cornell.edu/rio/citation/78_FR_78608), Dec. 26, 2013, as amended at [79 FR 75886](https://www.law.cornell.edu/rio/citation/79_FR_75886), Dec. 19, 2014]

**§ 2520.40 Under what circumstances may AmeriCorps members in my program raise resources?**

**(a)** AmeriCorps members may raise resources directly in support of your program's service activities.

**(b)** Examples of fundraising activities AmeriCorps members may perform include, but are not limited to, the following:

**(1)** Seeking donations of books from companies and individuals for a program in which volunteers teach children to read;

**(2)** Writing a grant proposal to a foundation to secure resources to support the training of volunteers;

**(3)** Securing supplies and equipment from the community to enable volunteers to help build houses for low-income individuals;

**(4)** Securing financial resources from the community to assist in launching or expanding a program that provides social services to the members of the community and is delivered, in whole or in part, through the members of a community-based organization;

**(5)** Seeking donations from alumni of the program for specific service projects being performed by current members.

**(c)** AmeriCorps members may not:

**(1)** Raise funds for living allowances or for an organization's general (as opposed to project) operating expenses or endowment;

**(2)** Write a grant application to the Corporation or to any other Federal agency.

[[70 FR 39597](https://www.law.cornell.edu/rio/citation/70_FR_39597), July 8, 2005]

**§ 2520.50 How much time may AmeriCorps members in my program spend in education and training activities?**

(a) No more than 20 percent of the aggregate of all AmeriCorps member service hours in your program, as reflected in the member enrollments in the National Service Trust, may be spent in education and training activities.

(b) Capacity-building activities and direct service activities do not count towards the 20 percent cap on education and training activities.

[[70 FR 39597](https://www.law.cornell.edu/rio/citation/70_FR_39597), July 8, 2005]

**§ 2522.200 What are the eligibility requirements for an AmeriCorps participant?**

**(a)***Eligibility.* An AmeriCorps participant must -

**(1)**

**(i)** Be at least 17 years of age at the commencement of service; or

**(ii)** Be an out-of-school youth 16 years of age at the commencement of service participating in a program described in [§ 2522.110(b)(3)](https://www.law.cornell.edu/cfr/text/45/2522.110#b_3) or (g);

**(2)**

**(i)** Have a high school diploma or its equivalent; or

**(ii)** Not have dropped out of elementary or secondary school to enroll as an AmeriCorps participant and must agree to obtain a high school diploma or its equivalent prior to using the education award; or

**(iii)** Obtain a waiver from the Corporation of the requirements in paragraphs (a)(2)(i) and (a)(2)(ii) of this section based on an independent evaluation secured by the program demonstrating that the individual is not capable of obtaining a high school diploma or its equivalent; or

**(iv)** Be enrolled in an institution of higher education on an ability to benefit basis and be considered eligible for funds under section 484 of the [Higher Education Act of 1965](https://www.law.cornell.edu/topn/higher_education_act_of_1965) ([20 U.S.C. 1091](https://www.law.cornell.edu/uscode/text/20/1091));

**(3)** Be a citizen, national, or lawful permanent resident alien of the United States;

**(4)** Satisfy the National Service Criminal History Check eligibility criteria pursuant to [45 CFR 2540.202](https://www.law.cornell.edu/cfr/text/45/2540.202).

**(b)***Written declaration regarding high school diploma sufficient for enrollment.* For purposes of enrollment, if an individual provides a written declaration under penalty of law that he or she meets the requirements in [paragraph (a)](https://www.law.cornell.edu/cfr/text/45/2522.200#a) of this section relating to high school education, a program need not obtain additional documentation of that fact.

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

**(1)** A birth certificate showing that the individual was born in one of the 50 states, the District of Columbia, Puerto [Rico](https://www.law.cornell.edu/topn/racketeer_influenced_and_corrupt_organizations_act_rico), Guam, the U.S. Virgin Islands, American Samoa, or the Northern Mariana Islands;

**(2)** A United States passport;

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

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

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

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

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

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

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

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

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

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

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

[[64 FR 37413](https://www.law.cornell.edu/rio/citation/64_FR_37413), July 12, 1999, as amended at [67 FR 45360](https://www.law.cornell.edu/rio/citation/67_FR_45360), July 9, 2002; [77 FR 60931](https://www.law.cornell.edu/rio/citation/77_FR_60931), Oct. 5, 2012]

**§ 2522.110 What types of programs are eligible to compete for AmeriCorps grants?**

Types of programs eligible to compete for AmeriCorps grants include the following: (a) *Specialized skills programs.*

**(1)** A service program that is targeted to address specific educational, public safety, human, or environmental needs and that -

**(i)** Recruits individuals with special skills or provides specialized pre-service training to enable participants to be placed individually or in teams in positions in which the participants can meet such needs; and

**(ii)** If consistent with the purposes of the program, brings participants together for additional training and other activities designed to foster civic responsibility, increase the skills of participants, and improve the quality of the service provided.

**(2)** A preprofessional training program in which students enrolled in an institution of higher education -

**(i)** Receive training in specified fields, which may include classes containing service-learning;

**(ii)** Perform service related to such training outside the classroom during the school term and during summer or other vacation periods; and

**(iii)** Agree to provide service upon graduation to meet educational, public safety, human, or environmental needs related to such training.

**(3)** A professional corps program that recruits and places qualified participants in positions -

**(i)** As teachers, nurses and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet educational, public safety, human, or environmental needs in communities with an inadequate number of such professionals;

**(ii)** That may include a salary in excess of the maximum living allowance authorized in [§ 2522.240(b)(2)](https://www.law.cornell.edu/cfr/text/45/2522.240#b_2); and

**(iii)** That are sponsored by public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits (other than any AmeriCorps educational award from the National Service Trust) of the participants.

**(b)***Specialized service programs.*

**(1)** A community service program designed to meet the needs of rural communities, using teams or individual placements to address the development needs of rural communities and to combat rural poverty, including health care, education, and job training.

**(2)** A program that seeks to eliminate hunger in communities and rural areas through service in projects -

**(i)** Involving food banks, food pantries, and nonprofit organizations that provide food during emergencies;

**(ii)** Involving the gleaning of prepared and unprepared food that would otherwise be discarded as unusable so that the usable portion of such food may be donated to food banks, food pantries, and other nonprofit organizations;

**(iii)** Seeking to address the long-term causes of hunger through education and the delivery of appropriate services; or

**(iv)** Providing training in basic health, nutrition, and life skills necessary to alleviate hunger in communities and rural areas.

**(3)** A program in which economically disadvantaged individuals who are between the ages of 16 and 24 years of age, inclusive, are provided with opportunities to perform service that, while enabling such individuals to obtain the education and employment skills necessary to achieve economic self-sufficiency, will help their communities meet -

**(i)** The housing needs of low-income families and the homeless; and

**(ii)** The need for community facilities in low-income areas.

**(c)***Community-development programs.*

**(1)** A community corps program that meets educational, public safety, human, or environmental needs and promotes greater community unity through the use of organized teams of participants of varied social and economic backgrounds, skill levels, physical and developmental capabilities, ages, ethnic backgrounds, or genders.

**(2)** A program that is administered by a combination of nonprofit organizations located in a low-income area, provides a broad range of services to residents of such an area, is governed by a board composed in significant part of low-income individuals, and is intended to provide opportunities for individuals or teams of individuals to engage in community projects in such an area that meet unaddressed community and individual needs, including projects that would -

**(i)** Meet the needs of low-income children and youth aged 18 and younger, such as providing after-school ‘safe-places’, including schools, with opportunities for learning and recreation; or

**(ii)** Be directed to other important unaddressed needs in such an area.

**(d)***Programs that expand service program capacity.*

**(1)** A program that provides specialized training to individuals in service-learning and places the individuals after such training in positions, including positions as service-learning coordinators, to facilitate service-learning in programs eligible for funding under Serve-America.

**(2)** An AmeriCorps entrepreneur program that identifies, recruits, and trains gifted young adults of all backgrounds and assists them in designing solutions to community problems.

**(e)***Campus-based programs.* A campus-based program that is designed to provide substantial service in a community during the school term and during summer or other vacation periods through the use of -

**(1)** Students who are attending an institution of higher education, including students participating in a work-study program assisted under part C of title IV of the [Higher Education Act of 1965](https://www.law.cornell.edu/topn/higher_education_act_of_1965) ([42 U.S.C. 2751](https://www.law.cornell.edu/uscode/text/42/2751)*et seq.*);

**(2)** Teams composed of such students; or

**(3)** Teams composed of a combination of such students and community residents.

**(f)***Intergenerational programs.* An intergenerational program that combines students, out-of-school youths, and older adults as participants to provide needed community services, including an intergenerational component for other AmeriCorps programs described in this subsection.

**(g)***Youth development programs.* A full-time, year-round youth corps program or full-time summer youth corps program, such as a conservation corps or youth service corps (including youth corps programs under subtitle I, the Public Lands Corps established under the [Public Lands Corps Act of 1993](https://www.law.cornell.edu/topn/public_lands_corps_act_of_1993), the Urban Youth Corps established under section 106 of the [National and Community Service Trust Act of 1993](https://www.law.cornell.edu/topn/national_and_community_service_trust_act_of_1993), and other conservation corps or youth service corps that perform service on Federal or other public lands or on Indian lands or Hawaiian home lands), that:

**(1)** Undertakes meaningful service projects with visible public benefits, including natural resource, urban renovation, or human services projects;

**(2)** Includes as participants youths and young adults between the ages of 16 and 25, inclusive, including out-of-school youths and other disadvantaged youths (such as youths with limited basic skills, youths in foster care who are becoming too old for foster care, youths of limited English proficiency, homeless youths, and youths who are individuals with disabilities) who are between those ages; and

**(3)** Provides those participants who are youths and young adults with -

**(i)** Crew-based, highly structured, and adult-supervised work experience, life skills, education, career guidance and counseling, employment training, and support services; and

**(ii)** The opportunity to develop citizenship values and skills through service to their community and the United States.

**(h)***Individualized placement programs.* An individualized placement program that includes regular group activities, such as leadership training and special service projects.

**(i)***Other programs.* Such other AmeriCorps programs addressing educational, public safety, human, or environmental needs as the Corporation may designate in the application.

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

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

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

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

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

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

**(4)** Compelling personal circumstances include:

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

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

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

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

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

**(A)** Military service obligations;

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

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

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

**(i)** To enroll in school;

**(ii)** To obtain employment, other than in moving from welfare to work or in leaving a program that includes in its approved objectives the promotion of employment among its participants; or

**(iii)** Because of dissatisfaction with the program.

**(6)** As an alternative to releasing a participant, an AmeriCorps\*State/National program may, after determining that compelling personal circumstances exist, suspend the participant's term of service for up to two years (or longer if approved by the Corporation based on extenuating circumstances) to allow the participant to complete service with the same or similar AmeriCorps program at a later time.

**(b)***Release for cause.*

**(1)** A release for cause encompasses any circumstances other than compelling personal circumstances that warrant an individual's release from completing a term of service.

**(2)** AmeriCorps programs must release for cause any participant who is convicted of a felony or the sale or distribution of a controlled substance during a term of service.

**(3)** A participant who is released for cause may not receive any portion of the AmeriCorps education award or any other payment from the National Service Trust.

**(4)** An individual who is released for cause must disclose that fact in any subsequent applications to participate in an AmeriCorps program. Failure to do so disqualifies the individual for an education award, regardless of whether the individual completes a term of service.

**(5)** An AmeriCorps\*State/National participant released for cause may contest the program's decision by filing a grievance. Pending the resolution of a grievance procedure filed by an individual to contest a determination by a program to release the individual for cause, the individual's service is considered to be suspended. For this type of grievance, a program may not - while the grievance is pending or as part of its resolution - provide a participant with federally-funded benefits (including payments from the National Service Trust) beyond those attributable to service actually performed, without the program receiving written approval from the Corporation.

**(6)** An individual's eligibility for a subsequent term of service in AmeriCorps will not be affected by release for cause from a prior term of service so long as the individual received a satisfactory end-of-term performance review as described in [§ 2522.220(c)(2)](https://www.law.cornell.edu/cfr/text/45/2522.220#c_2) for the period served in the prior term.

**(7)** Except as provided in [paragraph (e)](https://www.law.cornell.edu/cfr/text/45/2522.230#e) of this section, a term of service from which an individual is released for cause counts as one of the terms of service described in § 2522.235 for which an individual may receive the benefits described in §§ 2522.240 through 2522.250.

**(c)***Suspended service.*

**(1)** A program must suspend the service of an individual who faces an official charge of a violent felony (e.g., rape, homicide) or sale or distribution of a controlled substance.

**(2)** A program must suspend the service of an individual who is convicted of possession of a controlled substance.

**(3)** An individual may not receive a living allowance or other benefits, and may not accrue service hours, during a period of suspension under this provision.

**(d)***Reinstatement.*

**(1)** A program may reinstate an individual whose service was suspended under [paragraph (c)(1)](https://www.law.cornell.edu/cfr/text/45/2522.230#c_1) of this section if the individual is found not guilty or if the charge is dismissed.

**(2)** A program may reinstate an individual whose service was suspended under [paragraph (c)(2)](https://www.law.cornell.edu/cfr/text/45/2522.230#c_2) of this section only if the individual demonstrates the following:

**(i)** For an individual who has been convicted of a first offense of the possession of a controlled substance, the individual must have enrolled in a drug rehabilitation program;

**(ii)** For an individual who has been convicted for more than one offense of the possession of a controlled substance, the individual must have successfully completed a drug rehabilitation program.

**(e)***Release prior to serving 15 percent of a term of service.* If a participant is released for reasons other than misconduct prior to completing 15 percent of a term of service, the term will not be considered one of the terms of service described in [§ 2522.220(b)](https://www.law.cornell.edu/cfr/text/45/2522.220#b) for which an individual may receive the benefits described in [§§ 2522.240](https://www.law.cornell.edu/cfr/text/45/2522.240) through 2522.250.

[[64 FR 37413](https://www.law.cornell.edu/rio/citation/64_FR_37413), July 12, 1999, as amended at [73 FR 53759](https://www.law.cornell.edu/rio/citation/73_FR_53759), Sept. 17, 2008; [74 FR 46506](https://www.law.cornell.edu/rio/citation/74_FR_46506), Sept. 10, 2009; [75 FR 51410](https://www.law.cornell.edu/rio/citation/75_FR_51410), Aug. 20, 2010]

**§ 2540.202 What eligibility criteria must I apply to a covered position in connection with the National Service Criminal History Check?**

In addition to the eligibility criteria you establish, an individual shall be ineligible to serve in a covered position if the individual -

**(a)** Refuses to consent to a criminal history check described in [§ 2540.203](https://www.law.cornell.edu/cfr/text/45/2540.203) of this chapter;

**(b)** Makes a false statement in connection with a criminal history check described in [§ 2540.203](https://www.law.cornell.edu/cfr/text/45/2540.203) of this chapter;

**(c)** Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or

**(d)** Has been convicted of murder, as defined in [18 U.S.C. 1111](https://www.law.cornell.edu/uscode/text/18/1111).

[[77 FR 60932](https://www.law.cornell.edu/rio/citation/77_FR_60932), Oct. 5, 2012]

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

**(a)***Search procedure for individuals in covered positions who do not have recurring access to vulnerable populations.* Unless the Corporation approves an alternative search procedure under [§ 2540.207](https://www.law.cornell.edu/cfr/text/45/2540.207) of this chapter, to determine an individual's eligibility to serve in a covered position, you must conduct and document a National Service Criminal History Check that consists of the following components:

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

**(2)** Either:

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

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

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

**(1)** This rule applies to individuals who:

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

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

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

**(2)** Unless the Corporation approves an alternative search procedure or an exception under [§ 2540.207](https://www.law.cornell.edu/cfr/text/45/2540.207) of this chapter, to determine the eligibility of an individual described in paragraph (b)(1) of this section you must conduct and document a National Service Criminal History Check that consists of the following components:

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

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

**(iii)** Submission of fingerprints through a state central record repository for a fingerprint-based FBI national criminal history background check.

[[77 FR 60932](https://www.law.cornell.edu/rio/citation/77_FR_60932), Oct. 5, 2012]

**§ 2540.205 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?**

You are responsible for following these procedures:

**(a)** Verify the individual's identity by examining the individual's government-issued photo identification card, such as a driver's license;

**(b)** Obtain prior, written authorization from the individual for the State registry check, for the FBI criminal history check, and for the appropriate sharing of the results of the checks within the program. Prior written authorization from the individual is not required to conduct the nationwide NSOPW check;

**(c)** Document the individual's understanding that selection into the program is contingent upon the organization's review of the individual's National Service Criminal History Check component results, if any;

**(d)** Ensure that screening practices comply with federal civil rights laws, including Titles VI and VII of the [Civil Rights Act of 1964](https://www.law.cornell.edu/topn/civil_rights_act_of_1964) (and the Corporation's implementing regulations under Title VI);

**(e)** Provide a reasonable opportunity for the individual to review and challenge the factual accuracy of a result before action is taken to exclude the individual from the position;

**(f)** Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant; and

**(g)** Ensure that an individual, for whom the results of a required state or FBI criminal history registry check are pending, is not permitted to have access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities without being in the physical presence of:

**(1)**Your authorized representative who has previously been cleared for such access;

**(2)** A family member or legal guardian of the vulnerable individual; or

**(3)** An individual authorized, because of his or her profession, to have recurring access to the vulnerable individual, such as an education or medical professional.

**(h)** Unless specifically approved by the Corporation, you may not charge an individual for the cost of any component of a National Service Criminal History Check.

[[77 FR 60932](https://www.law.cornell.edu/rio/citation/77_FR_60932), Oct. 5, 2012]

**§ 2540.230 What grievance procedures must recipients of Corporation assistance establish?**

State and local applicants that receive assistance from the Corporation must establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance from the Corporation. A grievance procedure may include dispute resolution programs such as mediation, facilitation, assisted negotiation and neutral evaluation. If the grievance alleges fraud or criminal activity, it must immediately be brought to the attention of the Corporation's inspector general.

**(a)***Alternative dispute resolution.*

**(1)** The aggrieved party may seek resolution through alternative means of dispute resolution such as mediation or facilitation. Dispute resolution proceedings must be initiated within 45 calendar days from the date of the alleged occurrence. At the initial session of the dispute resolution proceedings, the party must be advised in writing of his or her right to file a grievance and right to arbitration. If the matter is resolved, and a written agreement is reached, the party will agree to forego filing a grievance in the matter under consideration.

**(2)** If mediation, facilitation, or other dispute resolution processes are selected, the process must be aided by a neutral party who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the matter through a mutually achieved and acceptable written agreement. The neutral party may not compel a resolution. Proceedings before the neutral party must be informal, and the rules of evidence will not apply. With the exception of a written and agreed upon dispute resolution agreement, the proceeding must be confidential.

**(b)***Grievance procedure for unresolved complaints.* If the matter is not resolved within 30 calendar days from the date the informal dispute resolution process began, the neutral party must again inform the aggrieving party of his or her right to file a formal grievance. In the event an aggrieving party files a grievance, the neutral may not participate in the formal complaint process. In addition, no communication or proceedings of the informal dispute resolution process may be referred to or introduced into evidence at the grievance and arbitration hearing. Any decision by the neutral party is advisory and is not binding unless both parties agree.

**(c)***Time limitations.* Except for a grievance that alleges fraud or criminal activity, a grievance must be made no later than one year after the date of the alleged occurrence. If a hearing is held on a grievance, it must be conducted no later than 30 calendar days after the filing of such grievance. A decision on any such grievance must be made no later than 60 calendar days after the filing of the grievance.

**(d)***Arbitration* -

**(1)***Arbitrator* -

**(i)***Joint selection by parties.* If there is an adverse decision against the party who filed the grievance, or 60 calendar days after the filing of a grievance no decision has been reached, the filing party may submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

**(ii)***Appointment by Corporation.* If the parties cannot agree on an arbitrator within 15 calendar days after receiving a request from one of the grievance parties, the Corporations Chief Executive Officer will appoint an arbitrator from a list of qualified arbitrators.

**(2)***Time Limits* -

**(i)***Proceedings.* An arbitration proceeding must be held no later than 45 calendar days after the request for arbitration, or, if the arbitrator is appointed by the Chief Executive Officer, the proceeding must occur no later than 30 calendar days after the arbitrator's appointment.

**(ii)***Decision.* A decision must be made by the arbitrator no later than 30 calendar days after the date the arbitration proceeding begins.

**(3)***The cost.* The cost of the arbitration proceeding must be divided evenly between the parties to the arbitration. If, however, a participant, labor organization, or other interested individual prevails under a binding arbitration proceeding, the State or local applicant that is a party to the grievance must pay the total cost of the proceeding and the attorney's fees of the prevailing party.

**(e)***Suspension of placement.* If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this chapter, such placement must not be made unless the placement is consistent with the resolution of the grievance.

**(f)***Remedies.* Remedies for a grievance filed under a procedure established by a recipient of Corporation assistance may include -

**(1)** Prohibition of a placement of a participant; and

**(2)** In grievance cases where there is a violation of nonduplication or nondisplacement requirements and the employer of the displaced employee is the recipient of Corporation assistance -

**(i)** Reinstatement of the employee to the position he or she held prior to the displacement;

**(ii)** Payment of lost wages and benefits;

**(iii)** Re-establishment of other relevant terms, conditions and privileges of employment; and

**(iv)** Any other equitable relief that is necessary to correct any violation of the nonduplication or nondisplacement requirements or to make the displaced employee whole.

**(g)***Suspension or termination of assistance.* The Corporation may suspend or terminate payments for assistance under this chapter.

**(h)***Effect of noncompliance with arbitration.* A suit to enforce arbitration awards may be brought in any Federal district court having jurisdiction over the parties without regard to the amount in controversy or the parties' citizenship.

1. See Appendix for 45 CFR §2522.200(a) [↑](#footnote-ref-1)
2. See 45 CFR §2520.50 in Appendix [↑](#footnote-ref-2)