Section I.

THIS IS NATIONAL SERVICE

*A. WELCOME TO AMERICORPS!*

Congratulations and welcome to AmeriCorps! You are now an important part of the National Service movement. We honor you for making a commitment to serving your community, and for dedicating a year of your life to be a part of something great for our country.

*B. GLOSSARY OF TERMS*

AmeriCorps has a unique terminology. There will be many new words and definitions that you will become more familiar with over the course of your service. Please see Section M of this chapter for the AmeriCorps Glossary.

***C. THE PCA CA AMERICORPS MEMBER HANDBOOK***

This PCA CA AmeriCorps Member Handbook (“Handbook”) outlines the policies concerning AmeriCorps membership in the PCA CA AmeriCorps program (“Program”). This Handbook will help you understand program decisions and policies. We invite you to ask any clarifying questions directly to your Service Site supervisor or Lead Agency.

# *D. THE AMERICORPS MEMBER CONTRACT*

In order to become an active AmeriCorps member with the PCA CA AmeriCorps program, all incumbents must read and sign the AmeriCorps Member Contract (“Contract”) prior to commencement of service. Your Contract outlines your basic rights and responsibilities. The Handbook more thoroughly elaborates on the policies and procedures to which you must adhere.

# *E. HANDBOOK CHANGES*

Sometimes things change during the course of the program year that would require changes to this Handbook. Any changes made to the Handbook will be provided to you via an addendum for you to sign and return to PCA CA within a designated time period. Failure to do so may result in suspension without living allowance or termination from the Program. It is our goal to provide additional information when requested to help clarify the addendum. You are subject to all policies and procedures governing the Program and are required to sign documentation indicating that you have received any new policies.

# *F. SOURCES FOR THE HANDBOOK*

There are many rules and regulations for AmeriCorps. We have compiled the information you need for a successful term from all of these sources. This Handbook is a compilation of the following sources:

* AmeriCorps Provisions 2010/2011
* Code of Federal Regulations (45 CFR Chapter XXV)
* AmeriCorps Special Legal Issues – A Community Service Brief from the Non-Profit Risk Management Center

*G. CORPORATION FOR NATIONAL AND COMMUNITY SERVICE*

The Corporation for National and Community Service (“CNCS”), an office of the United States federal government, provides opportunities for Americans of all ages and backgrounds to serve their communities and our country. AmeriCorps members and volunteers serve with national and community nonprofit organizations, faith-based groups, schools, and local agencies to help meet community needs in education, the environment, public safety, homeland security, and other critical areas. The mission of CNCS is to improve lives, strengthen communities, and foster civic engagement through service and volunteering. Together with USA Freedom Corps, CNCS is working to foster a culture of citizenship, service and responsibility in America. For more information, visit [www.nationalservice.gov](http://www.nationalservice.gov).

*H. AMERICORPS*

Created in 1993, AmeriCorps is designed to engage more than 2 million Americans of all ages and backgrounds in public service each year. AmeriCorps programs provide opportunities for citizens to make an intensive commitment to service. Each year, 75,000 AmeriCorps members serve through more than 3,000 nonprofits, public agencies, faith-based groups and other community organizations, helping meet critical needs in education, public safety, health and the environment. The variety of service opportunities is almost unlimited. Members may tutor and mentor youth, build affordable housing, teach computer skills, clean parks and streams, administer after-school programs, or help communities respond to disasters. PCA CA’s AmeriCorps programs focus on reducing the incidence of child abuse and neglect.

AmeriCorps members are united by four common goals:

* **Getting Things Done** through direct and demonstrable service that helps solve community problems in the areas of education, public safety, environment and other human needs.
* **Strengthening Communities** by bringing together Americans of all ages and backgrounds in the common effort to improve our communities.
* **Encouraging Responsibility** by enabling members to explore and exercise their responsibilities towards their communities, their families and themselves.
* **Expanding Opportunity** by enhancing members’ educational opportunities, job experience, and life skills.

###### AmeriCorps Pledge

AmeriCorps members are further united by the AmeriCorps Pledge:

***I will get things done for America – to make our people safer, smarter, and healthier.***

***I will bring Americans together to strengthen our communities.***

***Faced with apathy, I will take action.***

***Faced with conflict, I will seek common ground.***

***Faced with adversity, I will persevere.***

***I will carry this commitment with me this year and beyond.***

***I am an AmeriCorps member, and I will get things done.***

*I. AMERICORPS\*STATE AND NATIONAL*

AmeriCorps is made up of three programs: AmeriCorps\*State and National, AmeriCorps\*VISTA (Volunteers in Service to America), and AmeriCorps\*NCCC (National Civilian Community Corps). You are now a part of AmeriCorps\*State and National - the largest AmeriCorps program - through which more than 75,000 members serve each year with thousands of nonprofit organizations, public agencies, and faith-based organizations nationwide. Roughly three-quarters of all AmeriCorps\*State and National grant dollars go through and are administered by Governor-appointed state service commissions.

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| AmeriCorps Fast Facts | |
| Number of members who have served since 1994 | 637,000 |
| Total Number of Hours Served by AmeriCorps members | 774 million |
| Number of Community Volunteers managed or mobilized by AmeriCorps members in 2008 | 2.4 million |
| Total Amount of Segal AmeriCorps Education Awards earned by AmeriCorps members | $1.77 billion |
| Number of nonprofit, faith-based, and community organizations served by AmeriCorps members last year | 3,300 |
| Amount of AmeriCorps funds invested in nonprofit, community, educational, and faith-based community groups since 1994 | $6.3 billion |

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# Other AmeriCorps\*State and National Facts

* 43.3 percent of AmeriCorps\*State and National program/project resources are provided by non-Corporation sources.
* 92 percent of AmeriCorps\*State and National sponsoring organizations report members helped them increase the number of persons the groups served to a large or moderate extent.
* 89 percent of AmeriCorps\*State and National members complete their term of service.
* 91 percent of AmeriCorps\*State and National members say their service experience was excellent or good.
* 90 percent of AmeriCorps\*State and National sponsoring organizations report the member helped the groups increase their involvement with other organizations to a large or moderate extent.
* 72 percent of AmeriCorps\*State and National members continue to volunteer in their communities after their term of service ends.
* 89 percent of former AmeriCorps\*State and National members accepted public service employment (including governmental and nonprofit work) within three years after completing their AmeriCorps service.
* 86 percent of former AmeriCorps\*State and National members indicated that their service experience and training helped to a large or moderate extent in their job, educational pursuits, or community service activities.

As an AmeriCorps member, you are not an employee or a volunteer of your organization, of PCA CA, or of the federal government. Technically, you do not have a job. You provide service. The National and Community Service Act of 1990 and the National and Community Service Trust Act of 1993 identify the individuals who serve in AmeriCorps programs as “participants.” In most instances, though, you will be called an “AmeriCorps member.”

# *J. STATE SERVICE COMMISSIONS*

State Service Commissions provide CNCS funding to AmeriCorps state programs in their states through annual grant competitions. In addition, the Commissions manage, monitor and evaluate these AmeriCorps programs. State Service Commissions are also charged with encouraging volunteering in their states. They often administer special volunteer initiatives.

* **CaliforniaVolunteers**

CV is led by the first cabinet-level Secretary of Service and Volunteerism in the country, Secretary Karen Baker. As a state commission, CV has two major responsibilities:

1. Develop and promote a statewide vision to provide meaningful forms of volunteerism and service to the people of California; and

2. Make sure AmeriCorps programs comply with legal and grant requirements, progress toward meeting program outcomes, and maintain high quality projects and systems.

***K. PREVENT CHILD ABUSE CALIFORNIA (PCA CA)***

PCA CA is a state chapter of Prevent Child Abuse America, a national effort to eradicate child abuse and neglect throughout the United States. Every state has a Prevent Child Abuse (PCA) chapter that coordinates its statewide prevention efforts. PCA CA has a presence in all 58 California counties through either a local child abuse prevention council or a funded program. Along with other prevention-based organizations, PCA CA is an agency of the Child Abuse Prevention Center (CAP Center) in Sacramento. PCA CA represents a statewide consortium of Child Abuse Prevention Councils and other child abuse prevention and intervention organizations around California. PCA CA receives funding from CNCS to deliver prevention services to children and families through partnership with local community based organizations (CBOs), your Service Sites. Our role in your term of service is to provide ongoing training and technical assistance to your Service Sites and partners about the various AmeriCorps requirements and regulations. Additionally, we support them to provide you with training, support, and coaching to help you have a successful and fulfilling term of service with us.

# *L. TIPS FOR SUCCESS*

As an AmeriCorps member, you are responsible for fulfilling your commitment to serve your community. In exchange for this responsibility, you are offered numerous benefits and the personal satisfaction of making a difference. One of the four AmeriCorps common goals is to expand opportunities for AmeriCorps members. PCA CA AmeriCorps programs support the development of AmeriCorps members and encourage members to take make the most of their service term. The following tips for success will help you get the most out of your AmeriCorps experience.

1. Utilize and understand your Handbook and Contract. Read them thoroughly and ask questions if anything is unclear.
2. Prior to the beginning of your term of service, discuss the following with your Lead Agency and/or your Service Site Supervisor: Living Allowance Amount/Distribution, Term of Service Commitment and Responsibilities, Position Description, and Training Curriculum.
3. Ask for and keep a copy of important documents and paperwork, such as signed documents, child care application packets, loan forbearance forms, timesheets, living allowance stubs, performance evaluations, etc.
4. If you have questions or concerns about your service assignment, your benefits, or any AmeriCorps related topics, write them down as factually as possible and submit them to your Service Site supervisor or Lead Agency. Depending on the nature of the question or concern, the Lead Agency will address your concern with the appropriate individuals.
5. If you have not received notification of your child care, health care, or forbearance benefits after submitting the appropriate paperwork and waiting the designated amount of processing time, call the Lead Agency and inquire on the status.
6. For the betterment of the PCA CA AmeriCorps program and AmeriCorps members of the future, put time and thought into completing surveys, exit forms, self-performance evaluations, project evaluations, and other evaluation tools.
7. As the AmeriCorps pledge states, you may be faced with apathy, conflict and adversity during your AmeriCorps term of service. Be prepared to deal with these issues and remember your pledge to take action, seek common ground, and persevere.
8. Utilize effective time management strategies.
9. Look for growth opportunities in every situation.
10. Participate actively in meetings, trainings, and communications with others.
11. Ask questions. Seek guidance, coaching, information and policy clarification whenever necessary.
12. Develop personal and professional goals.
13. Act as a role model citizen and community member.
14. Support fellow AmeriCorps members in their process. Honor and acknowledge their strengths and be understanding of their challenges.
15. Consider the team relationship as a high priority.
16. Always be respectful and professional to others. This includes interactions with children, families, school staff, agency staff, fellow AmeriCorps members, supervisors, and community members.
17. Develop meaningful mentoring relationships with the children and families you serve using a strength-based philosophy.
18. Complete and submit paperwork (timesheets, monthly evaluation reports, sign-in sheets, enrollment/exit forms, etc.) in a timely manner accurately and consistently.
19. Dedicate time, energy and heart to the objectives of the PCA CA AmeriCorps Program.

The right attitude and perspective can really make a big difference; the quality of the AmeriCorps experience is embedded in the attitude of each AmeriCorps member. Those who come seeking a positive experience are rewarded with life changing opportunities. PCA CA hopes that you will make the most of your term of service. Together, we can bring hope and strength to all communities in which our programs operate.

***M. GLOSSARY***

* **AmeriCorps** – Federally funded programs that are designated by CNCS as national service programs. AmeriCorps includes AmeriCorps\*State and National, AmeriCorps\*VISTA (Volunteers in Service to America), and AmeriCorps\*NCCC (National Civilian Community Corps).
* **AmeriCorps\*NCCC** – A full-time, team-based residential program for men and women age 18–24. Members live on one of five campuses throughout the United States. The mission of AmeriCorps\*NCCC is to strengthen communities and develop leaders through direct, team-based national and community service. In partnership with nonprofit organizations, state and local agencies, and faith-based and other community organizations, members complete service projects throughout the region they are assigned.
* **AmeriCorps\*State and National** – The largest of AmeriCorps programs, AmeriCorps\*State and National provides funds to local and national organizations and agencies committed to using national service to address critical community needs in education, public safety, health and the environment. AmeriCorps\*State grants are distributed through state commissions. AmeriCorps\*National grants are distributed to organizations directly by CNCS.
* **AmeriCorps\*VISTA (Volunteers in Service to America)** – Full-time, national service program for men and women ages 18 and older interested in developing lasting solutions to the problems of poverty in America. AmeriCorps\*VISTA members serve nonprofit, local government agency, faith-based, and community organizations and agencies to develop permanent infrastructure to aid, expand, and strengthen programs and services designed to bring individuals and communities out of poverty. AmeriCorps\*VISTA is under the AmeriCorps umbrella and is administered by CNCS’s State Offices.
* **Audit** – To examine with intent to verify, usually regarding financial accounts.
* **Citizen** – A person who owes allegiance to and is entitled to the enjoyment of full rights in the United States, either by birth or naturalization.
* **Community-Based Organization (“CBO”)** – Any private nonprofit organization (including a church or other religious entity) that is representative of a community or a significant segment of a community; and is engaged in meeting human, environmental, or public safety community needs.
* **Consortia** – A group of organizations whose purpose is to collectively facilitate and support the work of a service program in ways that add material and human resources beyond those available to each organization individually.
* **Corporation for National and Community Service (“CNCS”)** – The independent federal agency that provides opportunities for Americans of all ages and backgrounds to serve their communities and our country through three programs: Senior Corps, AmeriCorps, and Learn and Serve America. The mission of CNCS is to improve lives, strengthen communities, and foster civic engagement through service and volunteering. Together with USA Freedom Corps, CNCS is working to foster a culture of citizenship, service and responsibility in America.
* **Domestic Volunteer Service Act of 1973** – The Domestic Volunteer Service Act authorizes AmeriCorps\*VISTA, the Foster Grandparent Program, the Senior Companion Program, and the RSVP program. The legislation was last amended in 1993 as part of the creation of CNCS.
* **Education Award** – A post-service benefit of $4,725 (full-time) or $2,362.50 (part-time) earned by all AmeriCorps members successfully completing a term of service. The award is paid directly to a lending or educational institution and may be used to pay off education loans or to finance college, graduate school, or approved vocational training.
* **Education Award Program** – An AmeriCorps program that receives a small administrative grant and uses their own or other resources to pay members’ living allowance and support program costs.
* **eGrants** – Online system for submitting grant applications and processing member applications.
* **Evaluation** – A formal external assessment of program effectiveness and outcomes at the end of a given period of time. Evaluation is conducted by CNCS with the cooperation of state commissions and programs. Independent program evaluation is required for all AmeriCorps awards over $500,000 and for all AmeriCorps program applications beginning with the 2010 RFA.
* **Fiscal Year** – A period of 12 months during which a particular budget is to be spent and accounted for. The federal government year begins on October 1 and ends on September 30. Another commonly used period is July 1 to June 30. The fiscal year of an AmeriCorps organization may or may not coincide identically with the AmeriCorps program year.
* **Foster Grandparent Program (FGP)** – One of the three National Senior Service Corps programs. Foster Grandparents devote their service to children as a role model, a mentor, and a friend. Serving at one of thousands of local organizations—including faith-based groups, Head Start Centers, schools, and other youth facilities—they help children learn to read, provide one-on-one tutoring, and guide children at a critical time in their lives, helping to set children on the path toward a successful future.
* **Formula Funding** – The annual allotment given to each state with which the state commissions award proposals for AmeriCorps funding.
* **Grantee** – The direct recipient of an AmeriCorps grant.
* **In-Kind** – Contributions and donations made in services and projects, not cash.
* **Learn and Serve America** – Service-learning programs that are designed to enrich academic learning and promote growth in participants while meeting community needs. There are two categories of Learn and Serve America programs: K-12, and Higher Education. Learn and Serve America: K-12 has two main components: school-based, which includes formula allotment grants to State Education Agencies, and community-based, which are distributed on a competitive basis to state commissions, grantmaking entities, and other qualified organizations (see service-learning).
* **Living Allowance** – AmeriCorps members receive a modest monetary living allowance to cover basic living costs during their term of service. The living allowance is equally distributed across the term and does not fluctuate based on the number of hours served in any given period. The living allowance is not a stipend (see stipend).
* **Matching Funds** – Programs that receive AmeriCorps funding are required to meet certain specified match requirements as a condition for receipt of federal funding. For every dollar of federal funds, there is a designated percentage of cash funds or in-kind contributions that the receiving entity must provide (this is the “match”). As AmeriCorps programs age, they are required to provide an increasing portion of match funds and a corresponding decreasing reliance on federal funds each year in their total program budget.
* **Members** – Participants in AmeriCorps (including AmeriCorps\*NCCC, AmeriCorps\*VISTA, and AmeriCorps\*State and National programs).
* **Mission Statement** – A mission statement expresses the program’s vision with regard to national service and indicates the ultimate impacts to be achieved. A program’s annual objectives are derived form the program’s mission statement.
* **National and Community Service Trust Act of 1993** – The National and Community Service Trust Act of 1993 created AmeriCorps and CNCS. The act authorizes appropriations for AmeriCorps\*State and National, AmeriCorps\*NCCC, Learn and Serve America, the National Service Trust, and the Points of Light Foundation. The 1993 legislation amended the National and Community Service Act of 1990.
* **National Competitive Funding** – An annual pool of AmeriCorps funds for which state commissions recommend programs to compete with others throughout the country. Programs that win national competitive funding add to those in the state formula portfolio to increase the number of AmeriCorps programs and funds in their states.
* **National Directs (AmeriCorps\*National)** – Multi-state AmeriCorps programs funded directly by the Corporation through nonprofit organizations.
* **National Senior Service Corps (NSSC)** –Encompasses the three senior service programs: Foster Grandparents, Senior Companions, and the Retired Senior Volunteer Program (RSVP).
* **National Service** – Results-oriented service by an individual or group of individuals that help meet the nation’s needs in the areas of education, public safety, the environment, and other human needs.
* **National Service Day** – A pre-designated day wherein AmeriCorps and community members engage in service together, usually project-focused. All AmeriCorps members nationwide serve and are recognized. Required National Service Days include: Make a Difference Day, All AmeriCorps Week, and either Martin Luther King Jr. Day of Service or Cesar Chavez Day of Service and Learning (California only). (see Signature Service).
* **Notice of Funding Opportunity (NOFO)** – A legal notification, published in the Federal Register, describing the availability of funds for a new federal program.
* **Participant** – Any individual enrolled in a program funded by the Corporation, as opposed to the more specific term “member,” which refers to individuals enrolled in an AmeriCorps program.
* **Partnership** – Two or more entities that have entered into a written agreement specifying the goals and activities of the relationship as well as the responsibilities, goals, and activities of each partner.
* **Program** – A coordinated group of activities linked by common elements such as recruitment, selection, and training of participants, and staff, regular group activities, and assignment of projects organized for the purpose of achieving the emission and goals of national service, and carried out with the assistance provided by CNCS.
* **Project** – An activity, or set of activities, carried out through a program that receives assistance from CNCS, that results in a specific identifiable service or improvement that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.
* **PSA** – Public Service Announcement.
* **Request for Applications (RFA)** – A term which some states or organizations use to describe the document containing instructions on how to apply for available grant funds. CNCS and the state commissions may have separate RFAs for national competitive and state formula funding awards.
* **Retired Senior Volunteer Program (RSVP)** – One of the three National Senior Service Corps programs that was created in 1972. Anyone over 55 years of age and willing to share their lifetime of experience is eligible. Seniors are vital contributing members of our community who can make a difference in the lives of others by sharing their talents and experience. Volunteers may choose from a wide variety of activities including tutoring children or adults; serving as docents for cultural events, nature centers or museums; providing support services at health centers; giving clerical support or consultant services; making friendly visits to the isolated elderly; preparing, serving, or distributing food, to name just a few.
* **Senior Companion Program (SCP)** – One of three National Senior Service Corps programs. Senior Companions help other seniors live independently in their own homes, strengthening and preserving the individual’s independence and helping control the rising costs of health care.
* **Serve America Act** – Reauthorizes and expands the mission of the Corporation for National and Community Service, by: increasing opportunities for Americans of all ages to serve, supporting innovation and strengthening the Nonprofit Sector, and strengthening management, cost-effectiveness, and accountability. Examples of changes: increases AmeriCorps opportunities from 75,000 positions to 250,000 annually by 2017; focuses AmeriCorps service on education, health, clean energy, veterans, economic opportunity and other national priorities; increases the education award; establishes a Summer of Service program for youth; establishes Serve America Fellowships and Encore Fellowships; creates a Social Innovation Fund to expand proven initiatives and provide seed funding for experimental initiatives; establishes a Volunteer Generation Fund; authorizes Nonprofit Capacity Building grants.
* **Service** – AmeriCorps members are national service participants and are not “employees” or “volunteers” of your organization or PCA CA. They do not “work” or have a “job,” they provide service.
* **Service-Learning** – A method by which students improve academic learning and develop personal skills through structured service projects that meet community needs. Service-learning builds upon students’ service activities by providing them with opportunities to learn by preparing, leading, and reflecting upon their service experiences (see Learn and Serve America).
* **Service Recipient** – A community beneficiary who receives a service or benefit from the service of AmeriCorps members.
* **Service Site** – The location where members provide the majority of their service and where they have the most contact with their direct supervisor and their beneficiaries (service recipients).
* **Signature Service** – A project undertaken by a large group of participants often from many different programs and usually in conjunction with a special day to highlight service programs and their participants, such as Martin Luther King Day or National Youth Service Day.
* **State Commission** – A 15-25 member, independent, bipartisan body appointed by a Governor to implement and/or monitor statewide service programs. Duties of a State Commission include development of a comprehensive Unified State Plan for service and volunteering in the state; submission of the state’s application to CNCS for AmeriCorps and community-based Learn and Serve funding; administration of the completion for AmeriCorps\*State programs; oversight and monitoring of funded AmeriCorps and community-based Learn and Serve programs, and reporting accomplishments to CNCS.
* **State Service Plan (SSP)** – A three-year plan developed by each state commission in partnership with the CNCS State Office, the State Education Agency, and other appropriate organizations in the state. The SSP should describe the broad vision for promoting national service and volunteering, and for building a solid infrastructure of high quality programs and support services in the state.
* **Stipend** – A cash benefit that is an alternative to the education award – an option only for AmeriCorps\*VISTA members. **The term is not synonymous with living allowance** (See Living Allowance).
* **Term of Service** – The number of months in which a member will serve toward their 900 or 1700 hour commitment.
* **Youth Civic Engagement** – The process of engaging youth in affecting policy and taking action on issues in their communities.
* **Youth Service** – The involvement of young people in providing services to their schools and/or communities. This term should not be confused with “youth services,” which typically
* refers to programs where youth are the recipients of service.

Section II.

OVERVIEW OF PCA CA AMERICORPS PROGRAMS

##### ***A. GENERAL OVERVIEW OF PCA CA AMERICORPS PROGRAMS***

**How is AmeriCorps associated with PCA CA and what are the sponsored initiatives?**

Based on the belief that every person can strengthen prevention efforts given the opportunity to serve, PCA CA operates AmeriCorps programs to enhance child abuse prevention efforts in local communities through the following programs:

**Child Welfare System Improvement (CWS)**

Working with local community based organizations and county Child Welfare departments, CWS places 40 members across 17 diverse California communities to prevent child abuse. Members provide intensive home visitation and Family Resource Center services to at-risk families who have already had a referral to Child Protective Services and also those who are referred from the community. Theses services are successful in preventing child abuse, reducing risk factors, increasing protective factors and have demonstrated over 90% success in preventing entry or re-entry into local Child Protective Services agencies.

**First 5 Service Corps (First 5)**

First 5 Service Corps members serve young children and their families to strengthen the child’s developmental skills so they can be prepared to enter school. First 5 Service Corps places 64 member in 11 California counties, including both urban and rural areas targeted based on a community needs assessment. The children are ages 2-5, the future students who are at risk for low performance upon kindergarten entry and therefore at risk for low school performance in later grades. Members provide direct developmental skill-building activities to help children develop the age-appropriate knowledge and skills of early childhood. Members directly engage children and families through home visitation, preschool activities, and Family Resource Center groups. They focus on language and literacy, social-emotional, and self-help skills.

***B. PERFORMANCE MEASUREMENT***

All AmeriCorps programs have “Performance Measures” (PMs). PMs define the goals of the project, the instruments to use to track success, and targets to reach for the year. There is one main PM per project, the primary focus of member activities unique to that particular AmeriCorps project. The main PM is the direct service and is called the “Needs and Service” PM. There are also two other required PMs to which all AmeriCorps programs contribute. One is volunteer recruitment and management, called “Strengthening Communities,” and the other is training members for successful service called “Member Development.”

Performance measurement is a way for programs to determine if they meet the objectives of the program, as stated in the grant application, and to gauge the difference the associated activities made. Performance measurement results also provide information necessary for decision-making, program outreach, continuous improvement, and funding opportunities.

**Performance Measures (PM’s) of CWS**

PREVENT ENTRY OR RE-ENTRY INTO CHILD WELFARE SYSTEMS (NEEDS AND SERVICE)

* + - Activities: AmeriCorps members will provide one on one home visitation and case managed support services to families referred by the CWS, CBO’s, and self. The member will initiate contact and begin to build a relationship with the family, scheduling meetings either at the family’s home or FRC.  The member will complete a pre-assessment utilizing the Family Development Tool (FDT), assessing families for risk areas to address in further support. Support services can be delivered at the home visit, Family Resource Centers (FRC) or at CBO’s individually or in group activities. Members will provide services in the following areas: crisis intervention, information & referrals, parenting skills/education, parent support, and social networking.  Home visits are designed to be approximately 60 minutes in length and will be provided once a week or bi-weekly depending on the level of family need and progress.  Home visits can be more frequent during short periods of high need or risk presented by the families.  Members will carry a caseload of 22 families.  The core participant families will receive approximately 15 hours of service. Once a member provides the core participant dosage of 15+ hours, the FDT post assessment will be administered. The non-core participants will receive 3 hours of service, which include: intake, assessment, and closure. For every hour of service there will be approximately 2 hours of time for preparation for the visit, travel, data entry, and case notes.
    - Data Collection Tools:
    - Service Activity Form to collect data on the number of families who receive family support services.
    - Family Development Tool to collect data on a family’s protective and/or risk factors in 12 key child abuse areas.
    - CWSI Recidivism Tool to collect data on the number of families entering or re-entering the Child Welfare System.
    - State-Wide Prevent Child Abuse & Neglect Output & Outcome Targets:
    - 1300 families will receive family support services.
    - 500 families will be identified as high need beneficiaries and receive 15+ hours of family support services.
    - National Performance Measure: 500 families will receive information on health insurance, health care access and health benefits.
    - 50% of core families (250) who were pre-assessed as vulnerable for child abuse & neglect increase by one level in one or more protective and/or risk factors.
    - 60% of families (300) receiving 15 hours of services who were pre-assessed as vulnerable for child abuse and neglect will not enter/re-enter the Child Welfare System.

VOLUNTEER RECRUITMENT (STRENGTHENING COMMUNITIES)

* + - Activities: Members will recruit volunteers to serve in both on-going and one-time activities.  On-going volunteers will advocate on behalf of children within the Child Welfare System to ensure they are not lost in an overburdened social service system or languish in an inappropriate foster home. One-time volunteers, will provide outreach services, assist with special events and provide support services. Members will network with the target sources for potential volunteers, prepare flyers, attend community events to recruit volunteers, plan recognition events, monitor volunteer hours, and organize trainings.
* Data Collection Tools: Service Activity Form
* State-Wide Volunteer Output & Outcome Targets:
* 250 volunteers recruited for on-going activities.
* 1600 volunteers recruited for one-time activities.
* 25,000 volunteer hours for on-going activities.
* 24,000 volunteer hours for one-time activities.

MEMBER DEVELOPMENT

* + - Activities:
    - Orientation (all members): 8 hours delivered by PCA CA and partner sites. PCA CA AmeriCorps Orientation-4 hours; Community Resources-4 hours.
    - Ongoing hours: including other site specific trainings (related to member position); supervision/coaching; team meeting, Professional Development, delivered by partner sites and local community partnerships.
    - PCA CA Core: Professional Boundaries & Confidentiality (3 hours), Conflict Resolution (6 hours), Child Development & Parent-Child Interaction (6 hours), Cultural Awareness (6 hours), 2 day Mandated Child Abuse Reporter Training (12 hours), Active Citizens (6 hours), Life After AmeriCorps (3 hours); delivered by PCA CA & partner sites.
* Required: Nurturing Parenting (8 hours), , CWSI Basics Training (30 hours), and CASA Training (30 hours), delivered by PCA CA & partner sites.
  + - Data Collection Tools:
    - Dated sign-in sheets and iEmployee timesheets will be used to track attendance and hours of participation by members for each training session.
    - Member performance evaluation administered three times per year to collect data on member skill increases.
    - State-Wide Member Development Output & Outcome Targets:
    - 40 members will participate in 10,816 training hours.
    - 90% of members (36) will increase skills by 10%.

**Performance Measures (PM’s) of First 5 Service Corps**

SCHOOL READINESS (Needs and Service)

* Activities: AmeriCorps members will provide developmental skill-building activities to children ages 2 to 5 years old in early care and education environments (e.g. preschools, the child's home, family resource centers, and other early care centers). In order to achieve age-appropriate milestones and be ready for school, members will engage children in direct developmental skill-building activities which will focus on literacy, math concepts, social competence, safety routines, and/or preventative health. Members utilize curriculum to develop appropriate activities based on general kindergarten readiness themes and the individual child's needs. Members will provide direct school readiness services through one-on-one skill-building and/or small group activities in regular intervals (usually between 30 - 60 minutes.) Examples of age-appropriate activities for young children include high frequency words, counting, phonological awareness, music and movement, language and pronunciation, letter/number recognition, patterns, shapes, colors, social interaction, sharing, self-concepts, empathy, oral health, etc. In service settings where the child's parent/guardian is present, members will also work with the parents to promote school readiness, role-model age-appropriate learning activities, demonstrate effective parent/child interaction and/or provide any appropriate resource/referral(s) for families. Additional daily actions may include: travel time to beneficiary sites other than the members primary service site, classroom preparation, lesson planning, outreach for school readiness services, translation for bilingual beneficiaries and completion of all necessary documentation, including data forms and data entry. The minimum threshold for children to be counted in the end outcome is receiving a minimum of 20 hours of direct service from an AmeriCorps member.
* Data Collection Tools:
* Service Activity Summary to collect data on the number of children who receive skill-building activities in literacy, social competence and/or preventative health for school readiness.
* Child Service-hour tracking sheet to collect data on the number of children receiving 20 hours of skill-building services in literacy, social competence and/or preventative health from AmeriCorps members.
* Child Development Assessment to collect data on the percent of children that increase age-appropriate knowledge in literacy, social competence and preventative health for school readiness.
* State-Wide School Readiness Output & Outcome Targets:
* 64 members will serve 2,135 children with school readiness services,
* 64 members will serve 1,315 high need children with at least 20 hours of school readiness services,
* 20% of 4 and 5 year old children who receive school readiness services will be kindergarten ready based on School Readiness Assessment results of 4 or higher in 7 categories.
* 75% of children who receive at least 20 hours of school readiness services will move from of 1 to a rating of 2 or higher OR from a rating of 2 to a rating of 3 or higher in at least one category on the Child Development Assessment
* National Performance Measures:
* 2,135 children will start an AmeriCorps Early Childhood Education Program
* 1,410 children will complete participation in an AmeriCorps Early Childhood Education Program
* 340 children will demonstrate gains in school readiness in terms of social and emotional development.
* 240 children will demonstrate gains in school readiness in terms of literacy skills
* 210 children will demonstrate gains in school readiness in terms of numeracy (math) skills.

VOLUNTEER RECRUITMENT (Strengthening Communities):

* Activities: Members will recruit volunteers to serve in both on-going and one-time community project opportunities. Volunteer activities will include: community, cultural, health and education-focused events and fairs; family bonding nights (such as games or movies); and First 5 related events and projects information booths. Members will utilize and inform volunteers of the California Volunteer Matching Network.
* Data Collection Tools: Volunteer log.
* State-Wide Volunteer Output & Outcome Targets:
* 76 volunteers recruited for on-going activities.
* 304 volunteers recruited for one-time activities.

Member Development:

* Activities:
* Orientation (all members): 32 or more hours; overview delivered by PCA CA (9 hours), Community Engagement (3 hours) delivered by partner sites, & site specific technical training delivered by partner sites (20 or more hours).
* Core members Trainings Delivered by PCA CA: Child Development/Parent-Child Interaction (6 hours); Mandated Child Abuse Reporter Training (3 Hours); Preventing Child Abuse and Neglect (3 hours); Volunteer Recruitment (3 hours); Social-Emotional and Cognitive development (3 hours); & Early Literacy and Family Literacy Fundamentals (3 hours).
* Other required trainings (all members) delivered by partner sites, curriculum provided by PCA CA: Active Citizens (6 hours); Life after AmeriCorps (Minimum of 3 hours); Professional Boundaries/Confidentiality (3 hours); Cultural Awareness (6 hours); Conflict Resolution (6 hours)
* Ongoing Hours (all members), including other site specific (related to member position) trainings; supervision/coaching; Professional Development; & PCA CA webinar-based tutorials.
* Data Collection Tools:
* Dated sign-in sheets will be used to track attendance and hours of participation by members for each training session.
* Member performance evaluation administered three times per year to collect data on member skill increases.
* State-Wide Member Development Output & Outcome Targets:
* 76 members will participate in 11,624 training hours.
* 75% of member will increase skills by 10%.

Section III.

**ABOUT YOUR TERM OF SERVICE**

# *A. ORIENTATION*

PCA CA conducts an orientation that coincides with the start dates for each of its AmeriCorps programs. Additionally, each Lead Agency and/or Service Site is required to conduct a site-specific orientation for new and returning members. The purpose of orientation is to provide an in-depth introduction to the PCA CA AmeriCorps program, communicate program objectives, policies and procedures, and address questions and comments from the members.

You are required to attend any agency orientations held by your assigned Service Site to receive additional information about the agency and the type of service you will provide.

## *B. TERM OF SERVICE*

#### Full‑time AmeriCorps Members

* Full-time AmeriCorps members must complete 1700 hours of service.
* A 1700 hour term of service can typically be completed in 11 months. The Lead Agency and Service Site will provide you with a schedule of hours that will lead you to successful completion.
* AmeriCorps members cannot extend service beyond their contracted term.

#### Half-time AmeriCorps Members

* Half-time AmeriCorps members must complete 900 hours of service.
* A 900 hour term of service can typically be completed in between 6 and 11 months. Your Lead Agency and Service Site will provide you with a schedule of hours. The length of the term is already pre-determined based on program need. Your contract indicates the number of months for your term.
* AmeriCorps members cannot extend service beyond their contracted term.

Prior to providing service, you will have signed a Member Contract outlining your AmeriCorps term in regard to the number of hours to be served (1700 or 900) and the time period in which they will be completed. Even if you complete your hours, you are expected to serve until the date indicated on your Member Contract in order to receive your full living allowance. To eliminate the risk of a gap in services to families, per the Member Contract, you are required to continue service through the originally agreed upon time period. If you complete your hours but choose to stop serving before the contract end date, the living allowance will not be issued for the remaining time period.

###### *C. SCHEDULING SERVICE HOURS*

The Lead Agency and/or Service Site is responsible for ensuring that you have sufficient opportunity to complete the required number of hours to qualify for an education award. In planning for your term of service, the Lead Agency and/or Service Site must account for holidays, other time off, and must provide you with sufficient opportunity to make up missed hours. You do not receive hours or living allowance for time not served, such as holidays, sick days or vacations.

Service Site supervisors are responsible for working with you to provide a schedule that identifies the hours and days you will be scheduled for service. Most programs schedule members for six- to eight-hour days between the hours of 7:30 a.m. and 9:00 p.m., Monday through Friday. Schedules will vary by Lead Agency, Service Site and AmeriCorps member. In addition to your usual schedule, you will also be scheduled for special events and National Service Days. These mandatory events may occur at atypical days and/or times.

You and your Service Site supervisor will work together to develop a plan for completion of the agreed upon number of hours (1700 hours or 900 hours) in the agreed upon time period. If you do not complete the agreed upon number of hours, you will not receive an education award unless documented compelling personal circumstances apply (see Section 4-B).

You will be assigned your service schedule in advance. You can only serve at Service Sites and report service hours authorized by your supervisor in advance. Any service you report that is not authorized does not count.

You will not receive service hours when any of the following exists:

* Supervisor has not scheduled the member to serve;
* You did not report to your Service Site as scheduled;
* You are on a Leave of Absence;
* You were unable to serve due to a holiday, illness or vacation;
* You have been suspended for cause.

# *D. NATIONAL SERVICE DAYS*

Throughout the year, AmeriCorps members have opportunities to come together for special events called National Service Days (NSDs). You are required to participate in National Service Days. These days are intended to connect members and communities across the country to a national network of programs, celebrate your accomplishments and allow you to serve with community volunteers, other AmeriCorps members, and national service participants.

You and your team will work together on various projects, events, and activities for your NSDs. It can be something you regularly do or something different from your regular service activities. Programs and members are required to participate in the following events:

1. Martin Luther King Jr. Day of Service (holiday in January), or

Cesar Chavez Day (California only, holiday in March)

2. All AmeriCorps Week (May)

3. Make a Difference Day (4th Saturday in October)

Programs and members are strongly encouraged to participate in the following events:

1. National Family Volunteer Day
2. National Volunteer Week
3. National Youth Service Day
4. Join Hands Day

Programs may designate other National Service Days in which to participate.

# *E. SPECIAL EVENTS*

Throughout the year, you will be required to attend special events related to your service, such as:

1. AmeriCorps Program Launch Day/Swearing-in Ceremony
2. AmeriCorps Orientation
3. AmeriCorps Graduation Ceremony

# *F. ELIGIBILITY FOR A SECOND TERM*

Service Sites are under no obligation to enroll a member for a second term of service. To be eligible for a second term of service with the PCA CA AmeriCorps program the following must be completed:

* Application Packet (including experience and training from your first term of AmeriCorps service).
* Fingerprints – You may need to be fingerprinted; check with your Service Site supervisor or Lead Agency, who will inquire with PCA CA.
* References – At least one of two references should be from a professional who supervised you during your first term of service.
* Performance Evaluation – You must have received a satisfactory performance evaluation for any prior term of service to be eligible to serve a second term of service.

***G. TERM LIMITS***

CNCS has determined that a member may serve a maximum of 4 terms of service as an AmeriCorps\*State and National program member. A term of service includes a full-time, part-time, or reduced part-time term, as well as an uncompleted term (e.g., if a member leaves a program for cause and has served at least 15% of the required term).

If a member has completed less than 15% of the required term of service, and if the member was released for reasons other than misconduct, that term will not be considered one of the first two terms for which an individual may receive an award. In this case, the program must request a waiver from the National Service Trust.

Under no circumstances will an individual be eligible to receive the value of more than two (2) full time education awards.

Section IV.

**AMERICORPS BENEFITS**

***A. AMERICORPS BENEFITS OVERVIEW***

**Education Award** – Provided to an AmeriCorps member who has successfully completed a required term of service in an approved national service position and meets all program eligibility requirements. At this writing, a member who completes a 1700 hour term of service receives an education award of $5,550.00. A member who completes a 900 hour term of service receives an education award of $2,775.00. All education awards are released from the National Service Trust.

# 

**Training/Member Development** – Provided to all AmeriCorps members throughout their term of service on various topics as defined by the PCA CA AmeriCorps Grant, Lead Agencies and local partnerships.

**Living Allowance** – A pre-determined monetary amount designed to offset cost of living expenses while members provide service.

**Child Care** – AmeriCorps members who serve on a full-time basis may receive a child care subsidy while they are participating in national service. In order to receive the subsidy, the member’s family must be income eligible and the child(ren)’s caregiver must be considered a legal provider. Children under the age of 13 are eligible for coverage.

**Health Care** – All AmeriCorps members who serve on a full-time basis and who are not enrolled with another health insurance plan (excluding Medicaid [Medi-Cal in California] or Medicare) are eligible to enroll in the AmeriCorps health care insurance plan.

**Loan Forbearance** – AmeriCorps members are eligible to have the repayment of certain student loans postponed during their term of service while they are earning an education award. Additionally, upon successful completion of their term of service, the National Service Trust (“Trust”) will pay a portion of the interest that accrued on the forbeared student loans while the member was serving.

**Workers’ Compensation** – PCA CA provides Workers’ Compensation insurance for its AmeriCorps members.

# *B. EDUCATION AWARD*

To earn an education award, you must complete your term of service. The amount of the education award depends on the length of your term of service, and is listed in the table below:

|  |  |  |
| --- | --- | --- |
| Term of Service | Minimum Number of Service Hours | Education Award |
| Full-Time | 1700 | $5,550.00 |
| Half-Time | 900 | $2,775.00 |

Under no circumstances will an individual be eligible to receive the value of more than two (2) full time education awards.

**Qualification for the AmeriCorps Education Award**

You are eligible for an education award issued by the Trust if you successfully complete your term of service in accordance with your Member Contract. At the time you use the education award, you must declare that you have received a high school diploma, or the equivalent of such diploma.

# Pro-Rated Education Award

Under special circumstances, based on review and approval by PCA CA, you may receive a pro‑rated education award if you are unable to complete your term of service due to documented compelling personal circumstances. You must have completed at least 15% of your contracted term in order to qualify. See Section V. AmeriCorps Member Policies for more information.

**Taxes**

The education award, unlike most other forms of scholarships and fellowships, is subject to federal tax in the year that it is disbursed by the Trust. Additionally, any interest the Trust paid on qualified student loans is also subject to income taxes in the years they were paid. When, and how much, of the education award you redeem may have an impact on your overall income tax responsibility.

If the Trust makes a payment on qualified student loans to your school or lender for the entire amount of a full-time education award in one calendar year, you will be responsible for any income taxes owed in that calendar year on that $5,550.00. If you redeem only a portion of your education award in one calendar year, you will be responsible for any taxes owed on that portion. The interest payments made on postponed qualified student loans are subject to income taxes in the calendar year in which the Trust made the payments to the lender. The Trust does not deduct taxes from a member’s education award or interest payments. After the calendar year in which the education award or interest payments are paid, a Form 1099 is sent to be used in preparing your income tax return. The total sum of interest payments and the education award are listed together on the 1099 form. For more information on the 1099, go to the IRS website page on tax information at:

<http://www.irs.gov/efile/article/0,,id=98114,00.html>

**Tax Relief**

While members are responsible for taxes on their education award and other AmeriCorps benefits, they may be eligible for other tax relief through the Taxpayer Relief Act of 1997. The Taxpayer Relief Act of 1997 created the Hope Scholarship Credit, the Lifetime Learning Credit, as well as a deduction for certain interest payments on qualified student loans. These benefits, which first became available for expenses incurred in 1998, mean that many AmeriCorps members will be able to obtain substantial relief, and in some cases, full-relief from federal taxes on the use of their education awards. For information on tax credits or the U.S. Department of Education's website page on the Hope Scholarship, go to:

[http://www.ed.gov/offices/OPE/PPI/HOPE/index.html](http://www.ed.gov/offices/OPE/PPI/HOPE/index.html%20)

Issues about income taxes can be very complicated. The important point to remember is that members should consider the tax consequences of any decisions they make about when and how to use their education award.

**Award Limitations**

You are eligible to receive one education award for each term of service successfully completed. Should you serve multiple terms, the total amount you may receive in education awards cannot exceed the value of two full-time education awards, or $11,100 at the time of this writing. Generally, if you are released for cause before completing your term of service and do not receive an education award, that term of service counts as one of your terms.

* The Trust does not make payments to anyone else other than qualified schools and loan holders. You must see your financial aid counselor for information on how they handle disbursements and reimbursements.
* You have seven years from the date of the completion of your term of service to use the education award. You can divide up your award and use portions of it at different times, as long as it is for authorized expenditures within the specified time period. You could, for example, apply a portion of it to existing qualified student loans, and save the remainder to pay for authorized college costs a few years down the road.
* If you withdraw from the school at which you have used the education award, the school may be required to refund the Trust. If any refund is owed, it is credited to your education award "account," and is subject to the seven-year time limit. For general information on how withdrawing from school may affect your student financial aid, go to the U.S. Department of Education's Student Guidebook at:

<http://studentaid.ed.gov/students/publications/student_guide/index.html>

* Under certain circumstances, you can use the education award to study outside the U.S. For further information, contact the National Service Trust at (888) 507-5962.

**How to Use the Education Award**

You can use your education award in any of the following ways, or a combination of them:

#### 1. Repay qualified student loans. The national service legislation defines "qualified student loan" as a loan backed by the federal government under Title IV of the Higher Education Act (except PLUS Loans to parents of students), or under Titles VII or VIII of the Public Health Service Act. In addition, you may use your education award to repay a student loan made by a state agency, including state institutions of higher education. Education awards cannot be used to repay any other type of loan, even if the loan was obtained for educational purposes. You can use your education award to repay defaulted student loans, as long as the loans meet the definition of "qualified student loan." Some of the most common federal qualified student loans are:

* Stafford Loans
* Perkins Loans
* Federal Direct Loans
* Supplemental Loans for Students (SLS)
* Federal Consolidated Loans
* Health Education Assistance Loans (HEAL)
* Health Professions Student Loans (HPSL)

2. Pay current educational expenses at a qualified school. "Current educational expenses," as authorized under 42 U.S.C. § 12604(c), include:

1. The "Cost of Attendance" for a degree- or certificate-granting program of study at a qualified school; and
2. Educational expenses for non-degree courses offered by qualified schools, such as continuing education courses.

A school is qualified if it is a Title IV institution of higher education, as defined in section 101 of the Higher Education Act of 1965, as amended (20 U.S.C. 1001). This includes most colleges and universities.

To determine if a school is an eligible institution, ask the financial aid administrator, visit the U.S. Department of Education's listing of Title IV schools at: <http://www.fafsa.ed.gov/FOTWWebApp/FSLookupServlet> or call the Federal Student Aid Information Center at 1-800-433-3243.

Some schools may match all or a portion of the education award. A list of these schools may be found at:

<http://www.americorps.gov/for_individuals/benefits/ed_award_match.asp>

3. Pay current educational expenses while participating in an approved school-to-work program.

**Effects of Educational Benefits on Financial Aid**

The education award, the interest the Trust paid on deferred qualified student loans, and living allowance can affect your eligibility for other student financial aid in the following ways:

1. Under certain circumstances, your education award, living allowance, and Trust payments on accrued student loans can be excluded from calculations determining eligibility for student aid based on financial need. This could increase the amount of "need-based" aid for which you may be eligible.

2. Under different circumstances, using the education award can reduce the amount of other need-based student aid for which you may be eligible.

3. Institutions of higher education may offer special benefits to AmeriCorps alumni, thereby increasing the benefit of the education award.

Under certain circumstances, you may be able to exclude from the calculation of financial need the amount of the education award used, the living allowance earned, and Trust payments on qualified student loans that were made in a given year. Excluding these amounts from the calculation used to determine financial need could increase the amount of need-based aid you can receive. This is a unique benefit to AmeriCorps alumni. For example, the living allowance, while subject to income taxes, is not considered income in this calculation.

Financial aid offices must consider the AmeriCorps education award as a resource, or funds that are available toward the cost of attendance, when considering eligibility for campus-based aid. This includes the Federal Supplemental Educational Opportunity Grant (SEOG), the Federal Work-Study Program, and Perkins Loans. (See 34 C.F.R. § 673.5(c)). Campus-based aid is distributed to schools in limited amounts, and is not considered an entitlement. A school will assist individuals to the extent resources are available. When using the education award as a resource, it may reduce eligibility for campus-based aid.

You should consider all of your options. For example, you might (1) apply your education award to your financial aid package after other financial aid has been determined; (2) spread out the use of the education award over two or more years within the seven-year time limit; or (3) use the education award to pay off student loans. You can also choose a school that increases the benefit of the education award. It is important to talk with a financial aid counselor about these and other options.

In addition, it is very important that you complete the FAFSA correctly, and complete it early. The FAFSA "is used to apply for federal student financial aid, including grants, loans, and work-study. In addition, it is used by most states and schools to award non-federal student financial aid" (OMB# 1845-0001). It can be accessed online at www.FAFSA.ed.gov. The FAFSA comes with detailed instructions. In the income exclusion worksheet portion of the FAFSA, you are asked to write down the amount of any "AmeriCorps awards" that were reported to the IRS in your adjusted gross income. In the 2010-2011 FAFSA, this information is requested in Worksheet C, as follows:

"Student grant, scholarship and fellowship aid, including AmeriCorps awards, that was reported to the IRS in your (or your parents') adjusted gross income."

On this line, you should write the amount of the AmeriCorps benefits you reported to the IRS in the relevant tax year. This includes any amount of the education award you redeemed, any AmeriCorps living allowances you received, and any interest payments that the Trust paid on your qualified student loan.

You are able to exclude these amounts because the federal code makes specific reference to the living allowance and other post-service benefits as resources to be excluded from calculating financial need. You can therefore exclude any part of the education award, the living allowance, and Trust payments on qualified student loans that were reported to the IRS in the relevant calendar year:

20 U.S.C. § 1087vv(e) defines the term "excludable income" as including "any living allowance received by a participant in a program established under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.)"  
20 U.S.C. § 1087vv(j)(1) states that: "For purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of Title 42, estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall include all... other assistance known to the institution at the time the determination of the student's need is made, including... national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990 (42 U.S.C. A. § 12571 et seq.)"

Since some financial aid funding is limited and institutions of higher education may make financial aid decisions well in advance of the academic year, you should complete the FAFSA early in the calendar year. Most schools disburse all of their campus-based financial aid funds immediately, so you should always complete the FAFSA in January or February, even if you don't plan to attend until spring or summer of the following year.

**How to Extend the Seven-Year Deadline**

By law, you have seven years within which to use your education award. The period begins the date you complete your term of service in AmeriCorps. This time limit may be extended if certain circumstances prevent the award from being used during this time period. These circumstances can include:

1. Performing another term of service in AmeriCorps or the Peace Corps during the seven year period; or
2. Being unavoidably prevented from using the award during the seven-year period. Examples of unavoidable situations which may warrant extensions include:
3. Serious illness or disability,
4. Military service,
5. Death of a family member,
6. Important service records being destroyed or
7. Inaccessible by the program.

Any period of incarceration as a result of a conviction of a criminal offense will not be considered an unavoidable situation. Members must request the extension in writing before the end of the seven-year period. The request can be either by mail or can be made electronically. A notice will be sent to all members prior to the end of their seven-year period reminding them of the expiration of their awards. For further information on how to request this extension, contact the Trust toll-free at (888) 507-5962. For more information visit: <http://www.americorps.gov/for_individuals/benefits/benefits_ed_award.asp>.

**How to Transfer the Education Award**

You can transfer your Education Award if you successfully complete your term, are over the age of 55 at the time of enrollment, and enrolled in an AmeriCorps program after October 1, 2009. The award recipients must be designated by the member; be the child, grandchild, or foster child of the member; and be a citizen, national, or lawful permanent resident of the United States.

**My AmeriCorps**

You can manage many aspects of your education award simply by creating a unique user name and password through the My AmeriCorps website. From the site, you can:

* Update contact information,
* Request forbearance on existing student loans that are not in default,
* Request payment of interest that has accrued on existing, non-defaulted student loans during your term of service,
* Request payment of qualified student loans,
* Request payment of current educational expenses,
* Extend the expiration date of the education award,
* View the status of pending requests,
* Check the balance of your education award, and
* View your account history.

You can access the site at: <https://my.americorps.gov/mp/login.do>

***C. TRAINING / MEMBER DEVELOPMENT***

The PCA CA AmeriCorps program utilizes a comprehensive training program for AmeriCorps members. Up to 20% of your total service time may be spent in training. The training program supports you to be an effective, well trained, and valuable team member in your respective area of service. Training is an ongoing component of the PCA CA AmeriCorps program.

Training/member development is a benefit that the AmeriCorps program offers to you. It is expected that you will attend and participate fully to obtain the most from the material being presented. You will have training/member development scheduled and delivered by the Lead Agency, Service Site, and/or PCA CA according to the program design of your AmeriCorps project.

## *D. LIVING ALLOWANCE*

The National and Community Service Act of 1990 requires AmeriCorps programs to provide members with a living allowance during their term of service. The amount of the living allowance and the frequency of distribution are included in your AmeriCorps Member Contract distribution information.

The living allowance is designed to help you meet the necessary living expenses incurred while participating in the AmeriCorps program. A living allowance is not a wage, and thus is not paid on an hourly basis, nor does it fluctuate based on the number of hours you serve in a given time period. However, you must serve at least one hour in the pay period in order to receive the living allowance. If you do not serve any hours in a given pay period, you will not receive the living allowance for that period.

The living allowance will be issued in incremental payments twice per month on the dates listed on the Living Allowance Schedule. The amount of the living allowance per period remains the same and does not fluctuate.

Notwithstanding the above, the living allowance incremental payment may be reduced in the following circumstances:

* Enrolling During a Pay Period. There are two (2) pay periods in any given month. The PCA CA AmeriCorps Program typically schedules the enrollment of AmeriCorps members at the beginning of a given pay period to ensure that AmeriCorps members receive the total living allowance for the corresponding pay period. However, in certain circumstances it may be necessary to enroll an AmeriCorps member later in a pay period. In those circumstances, the living allowance will be prorated as follows:

a. First pay period of any month. The first pay period of any given month begins on the first (1st) day of the month and ends on the fifteenth (15th) day of that month. If a member enrolls in the PCA CA AmeriCorps program on or after the eighth (8th) day of the month, that member’s living allowance will be prorated.

b. Second pay period of any month. The second pay period of any given month begins on the sixteenth (16th) day of the month and ends on the last day of that month. If a member enrolls in the PCA CA AmeriCorps program on or after the twenty-second (22nd) day of the month, that member’s living allowance will be prorated.

* Exiting during a Pay Period. There are two (2) pay periods in any given month. The PCA CA AmeriCorps Program typically schedules the release of AmeriCorps members at the end of a given pay period to ensure that AmeriCorps members receive the total living allowance for the corresponding pay period. However, in certain circumstances it may be necessary to release an AmeriCorps member earlier in a pay period. In those circumstances, the living allowance will be prorated as follows:

a. First pay period of any month. The first pay period of any given month begins on the first (1st) day of the month and ends on the fifteenth (15th) day of that month. If amember is released from the PCA CA AmeriCorps program on or before the eighth (8th) day of the month, that member’sliving allowance will be prorated.

b. Second pay period of any month. The second pay period of any given month begins on the sixteenth (16th) day of the month and ends on the last day of that month. If a member is released from the PCA CA AmeriCorps program on or before the twenty-second (22nd) day of the month, that member’s living allowance will be prorated.

The formula used to calculate the prorated living allowance amounts in the circumstances above is as follows:

|  |  |
| --- | --- |
| Incremental payment | x number of days of service performed |
| Number of days in the pay period |  |

If you do not serve any hours in a given pay period, you will not receive the corresponding living allowance for that period.

Disbursement will only be issued upon receipt of an approved service hour log (SHL); total living allowance will not exceed the maximum amount listed on page 1 of your Contract.

You may be required to serve more than 8 hours per day or 40 hours per week. Since AmeriCorps members are not employees of the program or of the federal government, they are exempt from wage and hour laws, including overtime pay.

You must complete your service hour log daily. At the end of each living allowance period (the 15th and the last day of the month) you are responsible for electronically submitting your SHL to your Service Site supervisor who must then approve the SHL. Member and supervisor have two business days following the last day of the pay period to complete and approve an SHL. Failure to meet the deadlines connected to completing the SHL will result in delay of payment.

Living allowance checks will be administered as follows:

1. Direct Deposit. Living allowance checks will be deposited on the 10th and 25th of each month. If the pay date falls on a weekend or a banking holiday, deposits will be made available the business day before. Notice of deposit will be mailed the day before the pay date.
2. Paper Check. Living allowance checks will be mailed on the 9th and 24th of each month. If the 9th and/or the 24th fall on a weekend or a banking holiday, checks will be mailed the business day before.

If a living allowance check is lost or missing, you are responsible for notifying PCA CA by completing a Lost Check Affidavit available from PCA CA’s payroll department. This document must be notarized; you will pay the applicable notary fee. In addition, if you request a replacement check, a $20 fee is required to stop payment on the lost check. As indicated on the affidavit, the fee may be deducted from the replacement check.

The living allowance is taxable, and may affect eligibility to receive certain types of public assistance.

Living Allowance payments will cease when you complete or are released from your term of service.

***E. LIVING ALLOWANCE IMPACT ON MEMBER BENEFITS***

**Member Classification**

AmeriCorps members are not employees of the PCA CA AmeriCorps program or of the federal government. The definition of “participant” in the National and Community Service Act of 1990 as amended applies to AmeriCorps members. As such, “a participant (member) shall not be considered to be an employee of the Program in which the participant (member) is enrolled. Moreover, members are not allowed to perform an employee’s duties or otherwise displace employees.”

**The Effect of A Living Allowance on a Member’s AFDC (or TANF), Food Stamps, and Other Need-Based Programs**

Your living allowance may affect your eligibility for need-based programs funded under the Social Security Act, such as Aid to Families with Dependent Children (AFDC) or Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI) and Medicaid. Your living allowance does not affect your eligibility for all other federal need-based programs such as Food Stamps, Section 8 housing, and public housing.

### *F. TAXES*

The following taxes will be taken from your living allowance based on federal and state laws:

* FIT W/H (Federal Income Tax Withholding)
* SIT W/H (State Income Tax Withholding)
* FICA (Federal Insurance Contributions Act ‑ Social Security). FICA tax is composed of Social Security tax at 6.2% of your gross pay and Medicare tax at 1.45% of your gross pay.

No taxes are taken for the following since you are responsible for your own coverage:

* SDI (State Disability Insurance)
* SUI (State Unemployment Insurance)

The Employment Development Department (“EDD”) has ruled that AmeriCorps members are not working in employment for purposes of Unemployment Insurance, Employment Training Tax, or Disability Insurance. AmeriCorps members are not eligible for unemployment benefits from living allowance issued to members. However, if your term of service ends before the contracted date, you may be able to apply for unemployment benefits from a previous employer. Contact your local EDD office for more information.

***G. TAX BENEFIT: EARNED INCOME CREDIT (EIC)***

The earned income credit (EIC) is a credit for eligible members. It can reduce the amount of tax owed. It may provide a refund even if no tax is owed. You may be eligible to get part of the earned income credit (EIC) in advance with their living allowance checks. Please read the W-5 Form in the Member File to determine eligibility.

## *H. GARNISHMENT*

AmeriCorps members receive a living allowance paid from both federal and private sources. The Office of the General Counsel for the Corporation for National and Community Service has determined that the federal portion of the living allowance is protected from garnishment by sovereign immunity. No more than 15% of an AmeriCorps member’s total living allowance can be garnished.

# *I. CHILD CARE*

Child care benefits were previously administered by AmeriCorps CARE, a branch of the National Association of Child Care Resource and Referrals Agencies (“NACCRRA”). However, CNCS awarded the contract to First Financial Associated on April 30, 2010. All members who enroll after August 1, 2010, will be administered by the new provider. At this writing, new materials were not yet available, but will be distributed once they have been made available to PCA CA.

Members who are serving in full-time capacity (when his/her regular term of service will involve performing service on a normal full-time schedule for a period of six weeks or more) and need child care in order to participate, may apply. A member is considered to need child care if he or she:

* Is the parent or legal guardian of, or is acting in loco parentis for, a child under 13 who resides with the member
* Has a family income that does not exceed 75 percent of the State’s median income for a family of the same size
* At the time of acceptance into the program, is not currently receiving child care assistance from another source, including a parent or guardian, which would continue to be provided while the participant serves in the program, and
* Certifies that he or she needs child care in order to participate in the program.

Eligible child care providers are those who are eligible child care providers as defined in the child care and development block grant act of 1990 (42 u.s.c. 9858n(5)). The amount of the child care allowance may not exceed the applicable payment rate to an eligible provider established by the state for child care funded under the child care and development block grant act of 1990 (42 u.s.c. 9858c(4)(a)).

Members may select either licensed/regulated or unlicensed/unregulated providers. Unlicensed/unregulated providers in the State of California must be Trustlined. More information about Trustline is available at: <http://www.trustline.org/>.

### *J. HEALTH CARE*

AmeriCorps members are eligible for health care coverage if they serve on a full-time basis (1700 hour commitment or a 900 hour commitment served in a 6 month time-frame) and are not covered by another health care plan (excluding Medicaid [Medi-Cal in California] or Medicare). Dependents are not eligible for coverage under the PCA CA AmeriCorps health care plan. The plan is administered by Strategic Resource Company (“SRC”).

If you already have health insurance coverage (excluding Medicaid [Medi-Cal in California] or Medicare), you must decline the PCA CA AmeriCorps health care plan on the AmeriCorps Benefits Form. If, during your term of service, you are no longer covered by another health care plan, you can apply for the PCA CA AmeriCorps health care plan. Details can be obtained from the Lead Agency.

If you are eligible for the PCA CA AmeriCorps health care plan, you can complete the AmeriCorps Benefits Form at the time of enrollment. Health care coverage starts on the date you specify on the AmeriCorps Benefits Form, but cannot precede your enrollment date in the AmeriCorps program. Health care coverage terminates on the last day of the month in which you complete the contracted term of service or are terminated from the program.

You can choose to continue your health care coverage once you have completed the contracted term of service or have been exited from the program by completing a "Continuation of Coverage" form. This form will be sent to you upon termination by SRC. If you elect Continuation of Coverage, you will be responsible for the health insurance premiums and any administrative fees. If you have been terminated for gross misconduct, you will not be eligible for Continuation of Coverage. If the PCA CA AmeriCorps program ceases to receive funding, the Continuation of Coverage benefit will no longer be available to any former members who have elected the benefit (and paid any associated premiums), or to any current members who may have planned to utilize the benefit after completing their term of service.

If you take a Family Medical Leave Act (FMLA) leave of absence, you will be allowed to continue participating in any health benefits plans in which you were enrolled before the first day of the leave (for a maximum of 12 work weeks). If you take an FMLA leave of absence for more than 12 weeks, you will be suspended from the PCA CA healthcare plan. Your health care coverage will be reinstated after PCA CA and the Lead Agency receive a letter signed by you and your supervisor stating that service has resumed.

### *K. LOAN FORBEARANCE AND INTEREST ACCRUAL*

AmeriCorps members are uniquely eligible for one type of loan postponement called forbearance. If eligible for forbearance, you will not be required to make payments on your student loans for the duration of your term of service. During this forbearance, interest continues to accrue. If you successfully complete your term of service, the Trust will pay all or a portion of the interest that has accrued on your qualified student loans during this period. This accrued interest paid by the Trust, like the education award itself, is subject to income taxes.

#### Eligibility

Most qualified student loans provide for forbearance or deferment during a term of AmeriCorps service. All AmeriCorps members enrolled in an AmeriCorps project are eligible for forbearance as well as having the Trust make payments on interest accrued on their qualified student loans while they are serving. If you do not have a student loan and/or do not need forbearance, you must decline forbearance on the AmeriCorps Benefits Form.

To have repayment of qualified student loans postponed, you must first be officially enrolled in an AmeriCorps project through My AmeriCorps, which electronically sends enrollment information to the Trust. You can then use the system to initiate your request for forbearance to your loan holder(s). You must complete one request for each loan holder. If your loan holder is not listed in the search feature, you can submit information to the Trust that will allow them to contact and register your loan holder with the system. Please note that only the loan holder can determine your eligibility for forbearance.

To request forbearance, you must first be officially enrolled in an AmeriCorps project through My AmeriCorps, which electronically sends enrollment information to the Trust. You can then use the system to initiate their request for forbearance to your loan holder(s). You must complete one request for each loan holder. If the loan holder is not listed in the search feature, you can submit information to the Trust that will allow them to contact and register your loan holder with the system. Please note that only the loan holder can determine your eligibility for forbearance. You should provide your Service Site supervisor with a printout from the system showing that you have in fact requested forbearance.

Please allow approximately 3 to 4 weeks processing time, and continue to make any scheduled payments until such time that you are notified that forbearance has been granted. Only the loan holder can determine eligibility for forbearance. The forbearance request should be completed at the beginning of your term of service, but can be completed at any time after that date. Delays in requesting forbearance can impact you financially, as you will still be required to make loan payments during that period.

The loan must qualify under the Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), other than a loan made to a parent of a student pursuant to section 428B of the Act 42 U.S.C. 292 a et seq.; and any loan pursuant to Title VII or VIII of the Public Service Health Act. Contact the school’s financial aid personnel to determine if the member’s loan qualifies.

**Defaulted Loans**

Most student loans that are in default are not eligible for forbearance. If you have loans that have gone into default before beginning your AmeriCorps service, you can attempt to negotiate an arrangement with your loan holder (or collection agency) to bring the loan out of default so forbearance can be granted and interest paid. To get these benefits, the AmeriCorps project must officially enroll you in an AmeriCorps program at the beginning of your term of service, and officially exit you once you have completed your term of service.

**Interest Accrual Benefit**

The Trust will pay all or a portion of the interest that accrued on your qualified student loans, if you:

1. Requested forbearance, and

2. Successfully completed your term of service.

Similar to the forbearance benefit, the interest accrual benefit request is initiated through My AmeriCorps. The Trust will not pay interest on qualified student loans if you fail to complete your term of service. Exceptions will be made only you fail to complete your term of service for documented compelling personal circumstances. Examples that might be considered are a serious illness or injury, death of an immediate family member, or early closing of a project. The Trust will only pay interest on qualified student loans, as described earlier. You should ask your loan holder if your student loan qualifies for other kinds of forbearance.

***L. WORKERS’ COMPENSATION***

The purpose of Workers’ Compensation is to promote the general welfare of people by providing compensation for accidental injuries or illnesses suffered in the course of employment (interpreted as service for AmeriCorps members.) These laws are designed to provide protection to workers suffering occupational disabilities through accidents arising out of, and in the course of employment.

PCA CA carries and pays the entire cost of workers’ compensation insurance for our AmeriCorps members. A member who suffers an injury or illness while serving may be eligible to receive temporary disability payments. In addition to disability payments, necessary hospital, medical and surgical expenses are covered under workers’ compensation, with payments being made directly to the hospital or physician. In California, temporary disability benefits are not paid until you have been absent three days following treatment by a physician or hospitalization, whichever comes first.

You must follow this procedure for handling service-related injuries:

**AmeriCorps Member Responsibility**

AmeriCorps members who are injured while serving must follow the procedure below:

1. Immediately notify your Service Site supervisor. It is your responsibility to report service related injury or illness. Failure to report injuries may result in a delay and/or loss of benefits. If you do not report the injury or illness within 24 hours, you may not be eligible for Workers’ Compensation benefits.
2. Seek medical attention if necessary.

a. In a life threatening injury, call “911” for assistance. Your supervisor must be notified immediately. Any injury requiring emergency treatment should be treated at the nearest emergency room immediately following the injury.

b. In a non-life threatening injury, you must notify your Service Site supervisor to provide information regarding the injury. If you or your supervisor feel that medical treatment is necessary, you must go to an approved medical facility unless you have pre-designated another healthcare provider prior to the injury. (To pre-designate a healthcare provider, you must, at the time of enrollment or prior to an injury, declare in writing, a personal healthcare provider of record, including the name, address, and telephone number, as your Workers’ Compensation healthcare provider. Your healthcare provider must be a medical doctor who retains your medical records/history and must agree to the designation in writing prior to the injury.) If you go to another medical facility without prior authorization, you may not have your bills paid, and they may become your responsibility.

3. Should your doctor restrict you from regular duty because of a service related injury, you must immediately inform your supervisor. Prevent Child Abuse California (PCA CA) has a Return to Work program and your supervisor and/or PCA CA’s Human Resources/Operations Manager may be able to accommodate your restrictions and provide you with modified service activities.

4. Obtain a Claim for Benefits formfrom your supervisor and complete the AmeriCorps member section.

It is illegal to collect workers’ compensation temporary disability income while serving. If you return to service while collecting temporary disability, you must contact PCA CA’s Human Resources/Operations Manager at (916) 244-1904.

Workers’ Compensation fraud is a crime. Any person who files or contributes to the filing of a false Workers’ Compensation claim is committing a crime punishable by a prison sentence

and/or penalty fines.

Section V.

**AMERICORPS MEMBER POLICIES**

***A. CITIZENSHIP***

# Jury Duty

Serving on a jury is an important responsibility of citizenship. The PCA CA AmeriCorps Program allows AmeriCorps members to participate in the jury process without being penalized for doing so. During the time you serve as a juror, you will continue to receive credit for your normal service hours, receive a living allowance, and maintain healthcare and childcare benefits. You may keep reimbursements for incidental expenses received from the court.

## Voting

The PCA CA AmeriCorps Program encourages eligible members to register and vote. The PCA CA AmeriCorps Program may not require members to register or to vote, or attempt to influence how members vote. Members who are unable to vote before or after service hours should be allowed to do so during their service time without being penalized. The Service Site supervisor should determine the length of absence.

### Voter Registration

PCA CA AmeriCorps Program funds may not be used to conduct voter registration drives. This is a prohibited service activity for AmeriCorps members.

**Armed Forces Reserves**

Generally, the Reserves of the U.S. Army, U.S. Navy, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, the Army National Guard and the Air National Guard require reservists to serve one weekend each month, plus 12 to 15 days each year. Whenever possible, the PCA CA AmeriCorps Program will work with the member to minimize disruption in service as a result of the members’ fulfillment of their reservist duties. Additional guidelines for consideration of AmeriCorps members’ Armed Forces Reserves commitments are as follows:

1. If members have a choice as to when to fulfill their annual two‑week active duty period requirement, they should do so when it will not disrupt their AmeriCorps service.
2. In instances where the dates of active duty are inflexible and conflict with AmeriCorps service, members should be granted time away from their AmeriCorps service for the two-week period of active duty period in the Reserves.
3. Members will accrue service hours during their two‑week active duty in the Reserves.
4. Members may not receive time off for additional Reserves-related service beyond the two-week active duty period.
5. No AmeriCorps service credit is earned for the once-a-month weekend service in the Reserves.
6. The PCA CA AmeriCorps Program will continue to pay the living allowance and provide child care and health care coverage for the two‑week period of active duty.

#### B. NONDISCRIMINATION POLICY

It is the policy of the PCA CA AmeriCorps Program to assure all persons of equal rights and opportunities with respect to serving in this program.

A person, including an AmeriCorps member, a community beneficiary, or program staff, may not, on the grounds of race, color, national origin, sex, age, political affiliation, sexual orientation, disability, or religion (except as noted below) be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, directly or through contractual or other arrangements, under any program or activity receiving federal financial assistance. The PCA CA AmeriCorps Program will not retaliate against any person who, or organization that, files a complaint about such discrimination.

The prohibition on discrimination on the basis of disability protects otherwise qualified individuals with disabilities. The prohibition against discrimination on the basis of religion with respect to program staff applies only to program staff paid with CNCS funds but excludes staff paid with CNCS funds who were already employed by the Grantee on the date the grant was awarded. This prohibition against discrimination includes but is not limited to:

1. Denying an opportunity to participate in, benefit from, or provide a service, financial aid, or other benefit;
2. Providing an opportunity which is different or provided differently;
3. Denying an opportunity to participate as a member of a planning or advisory body integral of the program;
4. Segregating or subjecting a person to separate treatment;
5. Providing an aid, benefit, or service to a qualified disabled person that is less effective in affording opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement;
6. Denying a qualified disabled person the opportunity to participate in integrated programs or activities, even though permissibly separate or different programs or activities exist;
7. Restricting a person’s enjoyment of an advantage or privilege enjoyed by others;
8. Providing different or separate aid, benefits, or services to disabled persons unless necessary in order to provide them as effectively as provided to others;
9. Treating a person differently in determining admission, enrollment, quota, eligibility, membership or other requirements;
10. Using criteria or administrative methods, including failing to provide needed auxiliary aids for disabled persons, which have the effect of subjecting persons to discrimination, or defeating or substantially impairing achievement of the objectives of the program for a person;
11. Selecting a site or location of facilities with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under the program;
12. Denying a qualified disabled person a benefit, aid, or participation because facilities whose groundbreaking occurred after May 30, 1979, are inaccessible to or unusable by disabled persons or because programs or activities in facilities predating May 30, 1979, when viewed in their entirety, are inaccessible to or unusable by disabled persons; and
13. Failing to provide reasonable accommodation to otherwise qualified individuals with disabilities.

# Violation of Civil Rights

The PCA CA AmeriCorps Program policy reflects the intent and the regulatory law of Title VII and all other Civil Rights Acts. The PCA CA AmeriCorps Program is obligated to maintain a work environment free of all intimidation, insult, and any form of harassment, especially racial/ethnic. Criminal penalties extend to those who injure, intimidate, or interfere with a person's civil rights, and those who attempt to do so. An AmeriCorps member involved in any form of a substantiated allegation of racial, sexual, religious, or ethnic epithets, harassment, intimidation, insults, or other categories falling into this category, including verbal abuse and sexual propositions, will be subject to disciplinary action. This disciplinary action can include dismissal for cause if the allegation is substantiated.

If you believe you have been the subject of harassment, you should report the alleged act immediately (within 24 hours) to your designated supervisor or to the Lead Agency or Service Site. An investigation of all complaints will be undertaken immediately by the Lead Agency and/or the Service Site. Any supervisor, agent, or member who, after appropriate investigation by the Lead Agency, has been found to have engagedin sexual or racial/ethnic harassment of an AmeriCorps member, will be subject to appropriate sanctions depending on the circumstances.

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 CNCS. If you believe that you or others have been discriminated against, or if you want more information, contact:

PCA CA:

Human Resources/Operations Manager

4700 Roseville Road

North Highlands, California 95660

(916) 244-1900

For California State Programs:

CaliforniaVolunteers:

CaliforniaVolunteers

1110 K Street, Suite 210

Sacramento, California 95814

(916) 323-7646

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE:

Office of Civil Rights and Inclusiveness

Corporation for National and Community Service

1201 New York Avenue, NW

Washington, D.C. 20525

(202) 606-7503 (voice); (202) 565-2799 (TTY)

(202) 565-3465 (FAX); eo@cns.gov (e-mail)

The PCA CA AmeriCorps Program recognizes that it can be difficult to determine whether a particular action or incident is an inappropriate overture without a discriminatory effect or an act of harassment affecting service. Consequently, PCA CA AmeriCorps Program personnel will examine all the factual details of the incident. Given the nature of discrimination, the PCA CA AmeriCorps Program recognizes that false accusations of harassment can have serious effects on innocent persons. We trust that you will continue to act responsibly and establish a healthy environment free of harassment and discrimination. You are encouraged to seek clarification and understanding on this from your designated supervisors, Service Site, or Lead Agency.

##### **Sexual Harassment Policy**

Sexual harassment is an unlawful practice prohibited by both federal and state law. All AmeriCorps members must be allowed to serve in an environment free from unsolicited and unwelcome sexual behavior or overtures. This has become part of the interpretation of Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination in employment based on gender.

The Equal Employment Opportunity Commission Guidelines define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

* Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s service.
* Submission to or reflection of such conduct by an individual is used as the basis for service decisions affecting such individual; or
* Such conduct has the purpose or effect of unreasonably interfering with an individual’s service performance or creating an intimidating, hostile or offensive service environment.

It is the policy of the PCA CA AmeriCorps Program that sexual harassment is unacceptable behavior and it will not be condoned or tolerated. Individuals and sites that violate this policy will be subject to disciplinary action up to and including termination of their term of service and/or termination of their right to participate in the PCA CA AmeriCorps Program partnership. Service Site Supervisors, Service Sites and the Lead Agency are directly responsible for preventing sexual harassment from occurring by taking appropriate action.

# If you feel your right to a sexual harassment free workplace has been violated, you must immediately contact your Service Ste supervisor, Service Site, and Lead Agency. Claims of unlawful harassment not brought to the attention of the Service Site supervisor, Service Site, Lead Agency, PCA CA, CaliforniaVolunteers (for programs other than National Direct), or the Equal Opportunity Office within 45 days of their occurrence may not be accepted in a formal complaint of discrimination. The Equal Opportunity Office may be reached at (202) 606-5000, extension 312 (voice), (202) 565-2799 (TDD), [eo@cns.gov](mailto:eo@cns.gov), or through: http://www.nationalservice.gov/home/no\_fear\_act/index.asp.

# *C. REASONABLE ACCOMMODATIONS*

You have a right to request reasonable accommodations for any disability. If you have a mental or physical disability or medical condition and need accommodation in order to perform your assigned responsibilities, you should request the accommodation from your Service Site.

Accommodations that impose an undue financial or administrative burden on the operation of the program or fundamentally alter its nature are not reasonable accommodations.

***D. MEDICAL, PHYSICAL AND DRUG TESTING***

To provide a safe environment for the children and families served by the PCA CA AmeriCorps Program, you may be required to receive a medical physical and be drug tested. The Lead Agency and/or the Service Site will give you a written policy regarding medical physicals and drug testing if required for your AmeriCorps position.

***E. DRUG-FREE WORKPLACE ACT***

In accordance with the Drug-Free Workplace Act (41 U.S.C. 701 et seq.) and in recognition of the fact that drug abuse may cause poor service performance and/or attendance, the PCA CA AmeriCorps Program shall make every effort to provide a drug-free workplace for its members. While you are serving or in uniform, you must not purchase, consume, or serve alcohol or drugs at any time.

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in any site wherein service is performed for the PCA CA AmeriCorps Program.

1. Any AmeriCorps member who unlawfully manufactures, distributes, dispenses, or uses a controlled substance in the workplace shall be subject to disciplinary action, up to and including termination from service.
2. Any AmeriCorps member who is convicted of a criminal drug related violation in the workplace shall inform his/her supervisor and Lead Agency in writing within five (5) days of such conviction. Failure to notify the supervisor and Lead Agency in writing within the specified period of time shall be regarded as immediate grounds for termination.
3. The PCA CA AmeriCorps Program will then report any such conviction to CV and CNCS within ten (10) days of such conviction.
4. The PCA CA AmeriCorps Program will attempt to help a person with a substance abuse problem by encouraging entry into a rehabilitation program approved for such purposes by a federal, state, county health, law enforcement, or other appropriate agencies. AmeriCorps members experiencing problems with alcohol or other drugs are urged to seek assistance voluntarily.

The PCA CA AmeriCorps Program recognizes that drug abuse can be successfully treated. Consequently, the Program shall provide materials to the member, informing them about the dangers of drug abuse in the workplace, the PCA CA AmeriCorps Program’s policy of maintaining a drug-free workplace, any available drug counseling or rehabilitation programs, and the penalties that may be imposed upon members for drug abuse violations occurring in the workplace.

# Definition of Abuse

Any use of an illegal drug; misuse of any over-the-counter drug, in cases where such use impairs service performance; use of any prescription drug in a manner inconsistent with its medically prescribed or intended use, or under circumstances where use is not permitted; use of alcohol where such use impairs service performance, or consumption of alcohol while on duty; intentional and inappropriate use of any substance, legal or illegal, which impairs service performance.

# *F. CONFIDENTIALITY*

# To create and maintain an environment of safety and trust, family and agency confidentiality must be maintained. Each Service Site will discuss its Confidentiality Policy with you. Violation of confidentiality may result in discipline up to and including release for cause.

# Confidential Files and Information

Careful custody and handling of documents and materials containing confidential information, as well as, discussed or overheard private communications are of critical importance. You are responsible for safeguarding this information against theft, loss, unauthorized use or disclosure. Therefore, if in the course of service, you have access to such materials or information, you must take the necessary steps to ensure that it is handled, stored, transmitted or destroyed in a manner which will preclude loss or misuse.

Such information should be given only to those persons at the Lead Agency and/or the Service Site who are authorized and need the information in order to perform the duties of their programmatic positions. Any unauthorized individuals, inside or outside the Lead Agency and/or the Service Site shall not have access to this information. Information will be identified as confidential by the Lead Agency and the Service Site.

# *G. PROHIBITED ACTIVITIES RULES*

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

1. Per 45 CFR § 2520.65, while charging time to the AmeriCorps Program, accumulating service or training hours, or otherwise performing activities associated with the AmeriCorps program or the Corporation, staff and members may not engage in the following activities:

a. Attempting to influence legislation;

b. Organizing or engaging inprotests, petitions, boycotts, or strikes;

c. Assisting, promoting or deterring union organizing;

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

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

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

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

h. Providing a direct benefit to:

i. A business organized for profit;

ii. A labor union;

iii. A partisan political organization;

iv. A nonprofit organization that fails to comply with the restrictions contained in section 501©(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

v. An organization engaged in the religious activities described in this section, unless Corporation assistance is not used to support those religious activities;

i. Conducting a voter registration drive or using Corporation funds to conduct a voter registration drive.

j. Such other activities as the Corporation may prohibit.

2. Additional CNCS Prohibited Activities

a. Member may not raise funds for living allowances or for an organization’s general (as opposed to project) operating expenses or endowment; or write a grant application to the Corporation or to any other Federal agency.

b. Member may not provide abortion services or referrals for such services during AmeriCorps service hours.

3. PCA CA AmeriCorps Program Prohibited Activities

a. Member may not transport clients, children and families in their personal automobiles during service unless authorized in writing by the Service Site Agency.

b. Member may not engage in, and therefore, not record hours in fundraising activities while serving in the PCA CA AmeriCorps Program.

c. Member must not participate in gambling on Service Site premises.

d. Member must not steal/take AmeriCorps or Service Agency’s property or property of another.

e. Member must not have contact with clients during non-service hours. All client contact must be pre‑approved by his/her Service Site Supervisor and Lead Agency.

# You may exercise your rights as a private citizen and may participate in the above activities on your own initiative, on non-AmeriCorps time, and using non-Corporation funds. The AmeriCorps logo must not be worn while doing so.

##### ***H. REPORTING CHILD ABUSE***

All AmeriCorps members in PCA CA AmeriCorps Programs are required to report suspected child abuse and neglect. The following situations are reportable conditions: physical abuse; sexual abuse; child exploitation (including child pornography and child prostitution); neglect; extreme corporal punishment resulting in injury; and willful cruelty or unjustifiable punishment. All AmeriCorps members in PCA CA AmeriCorps Programs are required to follow Lead Agency and Service Site mandated child abuse reporting policies and procedures.

You are individually responsible for reporting suspected child abuse and neglect. You must confer with your supervisor before or soon after making a report: you and your supervisor may jointly file one report. However, if the supervisor disagrees, you must report your original suspicion. Even if your supervisor thinks a report is not necessary, you should still report your original suspicion. No supervisor can impede or inhibit your report.

# *I. ASSISTING MEMBERS WITH LIFE‑THREATENING ILLNESS*

The PCA CA AmeriCorps Program recognizes that members with life‑threatening illnesses, including but not limited to cancer, heart disease and AIDS, may wish to continue to engage in as many of their regular activities as their condition allows, including serving in the program. As long as these members are able to meet acceptable performance standards and medical evidence indicates that their conditions are not a threat to themselves or others, they will be permitted to serve.

The PCA CA AmeriCorps Program will treat all medical information obtained from you as confidential. You will be required to submit, upon request, doctor's statements addressing service related questions to determine your ability to continue serving and to meet your duties described in the service duties and requirements.

***J. LEAVES OF ABSENCE***

As an AmeriCorps member, you have committed to serve 900 or 1700 hours. You receive credit for hours served. You do not receive credit for time away from service. If you must spend time away from the Service Site for such situations, you may request a Leave of Absence from the program. Each request for a Leave of Absence will be reviewed individually and must be approved by your supervisor, the Lead Agency and PCA CA.

**Family and Medical Leave Act**

The Family and Medical Leave Act of 1993 (FMLA) requires that members, if eligible, be granted up to 12 weeks of unpaid leave per year for the following reasons:

1. The birth of the member’s child, or placement of a child with the member for adoption or foster care;
2. To care for the member’s spouse, child or parent who has a serious health condition; or
3. For a serious health condition that makes the member unable to perform his or her duties.

To be eligible for leave, you must have provided service in the same program for at least 12 months and have completed at least 1,250 service hours. Contact your Lead Agency if you have further questions or are requesting leave as entitled by FMLA.

For purposes of calculating the 12-month period during which 12 weeks of leave may be taken, PCA CA uses the rolling calendar method. (A "rolling" 12-month period measured backward from the date a member uses any family leave. Each time you take family leave, the remaining leave entitlement is any balance of the 12 service weeks which has not been used during the immediately preceding 12 months.)

**Procedure for Applying for FMLA Leave**

You must contact your supervisor and the Lead Agency as soon as you realize the need for FMLA leave. If the leave is based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of yourself or a family member, you must notify the Lead Agency at least 30 days before leave is to begin. You must consult with your supervisor regarding scheduling of any planned medical treatment or supervision in order to minimize disruption to your AmeriCorps service. Any such scheduling is subject to the approval of your health care provider or the health care provider of your child, parent, or spouse.

If you cannot provide 30 days’ notice, the Lead Agency must be informed as soon as is practical.

The Lead Agency requires you to provide certification within 15 days of any request for family and medical leave under federal law unless it is not practicable to do so. The Lead Agency may require recertification from the healthcare provider if additional leave is required.

If the leave is needed to care for a sick child, spouse, or parent, you must provide certification from the healthcare provider stating:

* Date of commencement of the serious health condition;
* Probable duration of the condition;
* Estimated amount of time for care by the health care provider; and
* Confirmation that the serious health condition warrants your participation.

If you cite your serious health condition as a reason for leave, you must provide certification from the health care provider stating:

* Date of commencement of the serious health condition;
* Probable duration of the condition; and
* Your inability to work at all or perform any one or more of the essential functions of your position because of the serious health condition.

PCA CA will require certification by your health care provider that you are able to return to service. Failure to provide certification by the health care provider of your fitness to return to service will result in denial of reinstatement until the certificate is obtained.

If/when you take FMLA leave, you will be allowed to continue participating in any health benefits plans in which you were enrolled before the first day of the leave (for a maximum of 12 calendar weeks) at the level and under the conditions of coverage as if you had continued in service for the duration of such leave. The continued participation in health benefits begins on the first date leave first begins under the Family and Medical Leave Act. You will not receive a living allowance stipend, will not earn service hours and may not use childcare benefits while you are on an FMLA leave. Contact your Lead Agency if you have further questions or are requesting leave as entitled by FMLA.

**Leave of Absence**

At the Lead Agency’s discretion, leave may be authorized for AmeriCorps members who do not meet the eligibility requirements for FMLA leave. If leave is appropriate, the Service Site has the flexibility to determine the duration of the absence. The length of leave must be based on two considerations: (1) the circumstances of the situation; and (2) the impact of the absence on your service experience and on the overall program. If the disruption would seriously compromise your service experience or the quality of the program as a whole, then PCA CA may offer you the option of rejoining the program in the next class or completely withdrawing from the program.

**The Impact of a Leave of Absence on Program Benefits**

* Living Allowance: You receive a living allowance when you are actively serving hours in the program. You may not receive a living allowance if the leave period encompasses an entire living allowance period. This allows for the living allowance to be available to you during the period of time in which your term of service end date has been extended (See below *Service Hour Accrual*, “The Impact of a Leave of Absence on Service Hours”).
* Child care Benefits: Child care benefits **may not** be used during a Leave of Absence.
* Health care Benefits: You **will not** receive health care coverage during a Leave of Absence; however, health care coverage will remain effective during an approved FMLA leave.

**The Impact of a Leave of Absence on Service Hours**

The benefit for you in having an approved absence from the Service Site recorded as a Leave of Absence is that such a request will allow for you NOT to be penalized for missing service days. If the Leave of Absence has been documented and submitted to the PCA CA in a timely manner, this process will serve to extend the period of time you have available to successfully complete a term of service, not to exceed the end date of the PCA CA AmeriCorps program year.

**Service Hour Accrual**

Since you do not provide service during a Leave of Absence, you do not accrue service hours during that time frame. You will retain hours previously accrued toward your 1700 or 900 hour term of service and will be eligible to re‑enter the program at a later date if the PCA CA AmeriCorps Program has not extended beyond the end of the Contract Year. When you re-enter the program, the suspension of service hour accrual will be lifted. When your suspension ends and you are reinstated into the program, you will begin accruing service hours on the return date of your leave.

**Leave of Absence Request Procedure**

1. You must discuss the situation with your Supervisor and request the Leave of Absence in writing at least 30 days before the leave is to begin. If you cannot provide 30 days notice, the supervisor must be informed as soon as it is practical. The request must include the following information:
2. Start date of the Leave of Absence.
3. Reason for the Leave of Absence.
4. Expected date of return to the Service Site. (If unable to return on the date indicated, you must contact your Supervisor prior to the documented return date to discuss the situation. If you do not return and do not contact your Supervisor prior to the return date as stated, you may be terminated due to service abandonment.)
5. Expectations during the Leave of Absence. This should include, but not be limited to such items as: check-in dates with supervisor and updated status report(s) on your situation.
6. Member must sign and date the request.
7. If approved by your Supervisor, the original written request for Leave of Absence must be signed and dated by the Supervisor and submitted to the Lead Agency.
8. If approved by the Lead Agency, you will be suspended for compelling personal circumstances and the date you will be expected to complete the program will be adjusted.

**Your Responsibility during a Leave of Absence**

During an approved Leave of Absence, it is important for you to take time to address and remedy your situation, whether it is for personal or medical reasons. At the same time, to best serve children, families and the community, and in order to complete your term of service, you should make every effort to return to the PCA CA AmeriCorps program as soon as possible.

During a Leave of Absence, you must keep the Lead Agency and the Service Site abreast of your situation through the pre-determined check-in dates. If for any reason the agreed upon return date to the program should change, it is your responsibility to discuss this request for change with your Supervisor prior to the originally determined return date.

**Termination from a Leave of Absence**

During a Leave of Absence, failure on your part to check-in with your Service Site supervisor as agreed upon is a serious transgression, as is the failure to return to the Service Site on the designated return date. If either of these circumstances occurs, a pre-termination letter for service abandonment will be sent to you, which may result in termination from the PCA CA AmeriCorps Program.

If you decide not to re‑enter the program and communicate as directed with the Service Site and PCA CA, you may be eligible to receive a pro-rated education award. In this circumstance, you must have completed at least 15% of your service hours and be able to provide relevant documentation of a compelling personal circumstance.

***K. RELEASE FROM PARTICIPATION***

**Release for Compelling Personal Circumstances**

Under special circumstances, based on review and approval by PCA CA, you may receive a pro‑rated education award if you are unable to complete your term of service due to documented compelling personal circumstances. You must have completed at least 15% of your contracted term in order to qualify. See Section V. AmeriCorps Member Policies for more information.

Examples of compelling personal circumstances include, those which are beyond your control, such as, but not limited to:

* Your disability or serious illness;
* Disability, serious illness, or death of a family member if this makes completing a term unreasonably difficult or impossible; or
* Conditions attributable to the program or otherwise unforeseeable and beyond your 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.

Compelling personal circumstances also include those which CNCS has, for public policy reasons, determined as such, including:

* Military service obligations;
* Your acceptance of an opportunity to make the transition from welfare to work; or
* Acceptance of an employment opportunity if you are serving in a program that includes in its approved objectives the promotion of employment among its participants.

Additionally, the PCA CA AmeriCorps Program recognizes the following as a compelling personal circumstance:

* Pregnancy and/or childbirth could be determined to be a compelling circumstance if they prevent the AmeriCorps member from completing a term of service.

Compelling personal circumstances do not include leaving a program:

* To enroll in school;
* 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 members; or
* Because of dissatisfaction with the program.

The PCA CA AmeriCorps Program does not recognize dissatisfaction with the living allowance as a compelling personal circumstance. While these reasons for leaving may seem compelling to the member, the service activity and the community will suffer. An important part of providing national service is based upon a commitment to complete one’s contracted term. If a member resigns for any of these reasons or other reasons within his or her control, the individual will not receive any portion of the AmeriCorps education award. The member has the primary responsibility for demonstrating that the compelling personal circumstance prevented him/her from completing the term of service.

**Member’s Documentation of Compelling Personal Circumstances**

Members who resign from the program based on compelling personal circumstances must submit their request for the pro-rated education award to their Service Site supervisor in writing. The request must include:

* A description of the compelling personal circumstance,
* A description of the substantiating documentation supporting the compelling personal circumstance,
* A request for a pro-rated education award, and
* The appropriate substantiating documentation attached to the letter. Examples include, but are not limited to, doctor/medical provider’s letter, hospital records, military orders, etc.

**Submission of Documentation of Compelling Personal Circumstances**

* The AmeriCorps member must provide a written letter requesting a pro-rated education award and appropriate substantiating documentation to their Service Site supervisor upon request of the pro-rated education award.
* The Service Site supervisor must provide written support of the member’s claim and request for the pro-rated education award, if requested.
* The Service Site supervisor is responsible for forwarding all of the documentation to their project manager at PCA CA within three (3) business days of receiving the member’s request.

**PCA CA Review of Request**

PCA CA is responsible for reviewing all pro‑rated education award requests and determining whether a member’s personal circumstances are sufficiently “compelling” (as defined by 45 CFR Chapter XXV §2522.230) and have sufficient documentation to justify the release of a pro-rated education award. PCA CA will notify the AmeriCorps member and the Service Site supervisor of the final decision.

**Successful Completion of Service**

The Service Site and/or Lead Agency responsible for your supervision must determine whether you successfully completed a term of service based upon an end-of-term evaluation conducted pursuant to 45 C.F.R. § 2522.220(d). The criteria are as follows:

* + - Whether you completed the required number of hours,
    - Whether you satisfactorily completed assignments, tasks or projects, and
    - Whether you met any other performance criteria which had been clearly communicated both orally and in writing at the beginning of your term of service.

**Release for Cause**

A release for cause encompasses any circumstances other than compelling personal circumstances. The term “for cause” does not necessarily have the same meaning as under traditional employment law, but can include disciplinary removals pursuant to the Member Contract.

Section VI.

**AMERICORPS MEMBER REQUIREMENTS**

***A. ATTENDANCE REQUIREMENTS***

**Scheduled and Unscheduled Days**

Members are either *Scheduled* or *Not Scheduled* for service*.* When you are not scheduled, you will notreceive service hours. In order to claim AmeriCorps hours you must be providing service under the PCA CA Program related activities or responsibilities. The AmeriCorps program does not recognize holidays since this program is focused on service throughout the program year. Thus, Lead Agencies and Service Sites will develop AmeriCorps member calendars and will determine which days and hours the member is scheduled.

**Attendance Policy**

The PCA CA AmeriCorps program is designed so that those selected for the program will provide service hours as scheduled every month for the agreed upon term of service, not to exceed a 12‑month period or the end of the program year, whichever comes first. You are expected to serve until the date indicated on your Member Contract, regardless of when you have completed the minimum number of hours.

Consistent and reliable attendance is essential to providing service. The PCA CA AmeriCorps program expects you to serve the hours you are scheduled in order to meet the needs of the children and families in the community in which you serve and to complete your term of service within the service year. Remember, you can only serve those hours scheduled and authorized by your supervisor.

To ensure that members are able to complete their contracted term of service, PCA CA nto will review the service hours of all AmeriCorps members. Monthly, each AmeriCorps member’s service hours will be calculated from his or her enrollment date.

For members who are found to be 40 hours or more behind, based on 155 hours of service per month (for 1700 hour members), the following procedure will be administered:

1. PCA CA will notify the Site Supervisor.
2. The AmeriCorps member and supervisor must complete and sign a Plan for Action outlining how the member will make up the missed service hours.

3. Once the Plan for Action has been written, the supervisor will work with the member to comply with the Plan for Action.

4. PCA CA and the Site Supervisor will periodically review the member’s hours to check for compliance. If a member does not comply with the Plan for Action, a Written Warning may be administered by the Site Supervisor.

5. If a member does not comply with the actions indicated in the Written Warning, he or she may be issued a Pre-Termination letter.

6. Finally, if the matter is not resolved the member may be terminated and released from the AmeriCorps program for cause.

**Hours Prior to Start Date**

You may notearn any service hours toward your minimum contracted number of hours prior to the start date listed in your member contract. Only hours performed after your contracted start date may be counted towards your minimum contracted number of hours (1700 or 900 hours).

**Tardiness**

You are expected to report to your Service Site as scheduled and be ready to serve at the scheduled time. You are responsible for knowing what time you are scheduled to be at the Service Site. If something unavoidable happens that will cause you to be late, you must call your supervisor immediately. This policy applies to attendance for training, special events and other activities that you are scheduled to attend. Service Sites will provide guidelines for reporting.

**Service Abandonment Policy**

If you do not report to your Service Site and do not contact your Service Site supervisor for three consecutive days, your absence will be considered “service abandonment.” A pre-termination letter will be sent via certified mail/return receipt requested by your supervisor stating that you will be terminated from the program if you do not respond by a specified date. If you do not respond by the specified date, your supervisor will send you a termination letter via certified mail/return receipt requested.

**Service Hour Logs Policy**

You are required to complete a time sheet, or Service Hour Log (SHL) for each living allowance period. To ensure accurate and timely submission of timesheets, PCA CA has moved to a user-friendly electronic timekeeping system called “iemployee.” You will have an individual login ID and password. You must complete your SHL daily. You will enter your time based on time type (service and member development) and project (specific activities within each time type, such as required training or national service day). You will certify your SHLs with an electronic signature and submit to your Service Site Supervisor at the end of each living allowance period (the 15th and the last day of the month). Your supervisor will receive an automatic e-mail when your SHLs are complete and will login to the system and approve the SHLs via electronic signature certification. Member and supervisor have two business days following the last day of the pay period to complete and approve an SHL. It is the practice of PCA CA to issue a living allowance only when PCA CA has received a supervisor-approved SHL. Failure to meet the deadlines connected to completing the SHL will result in delay of payment.

#### B. DAILY BREAKS REQUIREMENTS

**Lunch Breaks**

The Lead Agency and/or the Service Site will schedule a minimum of a 30‑minute lunch break when you serve between 6 and 8 hours per day. You do not accrue service hours during lunch breaks. Lunch breaks cannot be scheduled or taken at the beginning or end of your shift. You are responsible for notifying your supervisor if you feel that you are unable to take a lunch break.

**Breaks**

Breaks are designed for you to use the restroom, get water, etc. You are authorized a 15 minute break for every 4 hours served. You accrue service hours during 15 minute breaks. Break time cannot be taken at the beginning or end of the day.

***C. BEING A PROFESSIONAL AMERICORPS MEMBER AT THE SERVICE SITE***

It is important that you conduct yourself in a professional manner by treating Service Site staff and service recipients with respect. Ways to be a professional AmeriCorps member include:

* Maintain open and frequent communication with Service Site staff about daily duties;
* Avoid criticizing Service Site staff or policies, both while at the Service Site and in public;
* Assist Service Site with their other programs as appropriate;
* Keep workspace neat and organized;
* Maintain a pleasant and positive attitude;
* Refuse to allow interpersonal conflicts with other members or staff to interfere with service or affect professionalism;
* Inform your supervisor about any problems encountered at the Service Site, in the field, or in public;
* Make an effort to learn, understand and blend with the culture and “norms” of the Service Site.

***D. FRATERNIZATION BETWEEN STAFF, MEMBERS, AND SERVICE RECIPIENTS***

In order to maintain a standard of professionalism and responsibility in leadership, it is necessary to establish guidelines for personal relationships between AmeriCorps members, program staff, and service recipients.

You have a responsibility to notify your supervisor of any family or social relationship with staff, co-members and service recipients that you interact with through your AmeriCorps position. It is at the discretion of your Service Site supervisor as to what action will be taken based on your disclosure. Actions may include discussing confidentiality and clearly setting expectations, removing the service recipient from your case load, re-defining your duties, or transferring you to an alternate Service Site. These actions are intended to support your success in your service position.

You have the right to decline to provide service to a service recipient due to a family or social relationship. However, the result may be that your position may be redefined or re-assigned. Every effort must be made for the potential service recipient to receive service through another avenue.

# *E. ACCEPTABLE CONDUCT*

You are required to conduct yourself as a representative of the PCA CA AmeriCorps program and the Service Site in a professional manner at all times. You must comply with all policies and requirements outlined in the PCA CA AmeriCorps Member Handbook, in addition to requirements of the Lead Agency or Service Site. Any act violating these requirements constitutes a violation of the Member Contract and may be grounds for release for cause. Set forth below is a non‑exhaustive list of requirements, which, if not followed, may result in coaching, progressive discipline and/or release from the program.

###### PCA CA AmeriCorps Program Requirements

1. Member must complete agreed upon duties as listed in position description and/or assigned by Service Site supervisor. Member must meet or exceed service standards as outlined in the Position Description.

2 Member must adhere to all PCA CA AmeriCorps Program, Lead Agency, and Service Site policies and procedures.

3. Member must maintain professional demeanor during interactions with supervisors, other members, and the public.

4. Member must be truthful and accurate in all conversations and on all records/documents including, but not limited to: eligibility criteria, program documentation (forms, SHLs, supervision, corrective action), data, childcare documents, medical releases/records, criminal background or subsequent arrests, and professional communications.

5. Member must assume responsibility for actions, products, decisions, and language, including record keeping, interactions with others, and carrying out his/her role as a National Service participant. He/she has the obligation to report and be answerable for resulting consequences.

6. If serving for a period of more than 6 hours in one day, member must take a meal period of not less than 30 minutes, during which time he/she must be relieved of all service-related duties. The meal period cannot be taken at the beginning or the end of the service day.

7. Member is required to conduct him/herself as a representative of the PCA CA AmeriCorps program and the Service Site Agency in a professional manner at all times.

8. Member must notify his/her supervisor of any family or social relationship with staff, co-members and service recipients with whom they interact through their AmeriCorps position.

###### 9. Service Hour Requirements

a. In order to claim AmeriCorps hours, member must be serving on PCA CA AmeriCorps

related activities or responsibilities.

b. Member must report to the Service Site on time.

c. Member must follow the site procedure for contacting and notifying his/her supervisor as soon as possible when:

i. he/she is unable to report to the Service Site

ii. he/she will be late to arrive to a scheduled activity;

iii. he/she needs to leave the site earlier than scheduled.

d. Member must receive prior approval from his/her supervisor before attending any seminars, trainings, workshops, or activities that are not scheduled.

e. Member must receive prior approval from his/her supervisor before serving any additional unscheduled hours.

f. Non-service related activities, such as working on homework and making personal phone calls may only occur during scheduled break times.

g. Member must contact his/her supervisor to find additional service to perform if he/she has completed all assigned tasks.

h. Member must maintain an agreed upon attendance record.

i. Member will not earn any service hours toward their minimum contracted number of hurs prior to the start date listed above.

j. If member does not report to his/her service site and does not contact his/her site Supervisor for three consecutive days, it will be considered “service abandonment” and may be cause for immediate termination.

10. Service site equipment, such as phone, computer, mail or supplies must be used for service assignment only.

11. Member may be required to sign an additional set of requirements by the Lead Agency and/or Service Site.

12. Member must use appropriate language and behavior while representing AmeriCorps.

###### 13. Dress Code Requirements. While serving AmeriCorps hours, members will adhere to the following dress code. Additional guidelines may be provided by the Lead Agency and/or Service Site.

1. Member must wear the AmeriCorps logo to identify member as an AmeriCorps member during the course of service. Logo can be worn on uniform shirt, lapel pin, button, name badge, etc.
2. Member must wear clothing and shoes that are safe and appropriate for the work in which Member is involved. No open-toed shoes during service hours and National Service Projects.
3. Clothing must be clean and mended if torn
4. Member will not wear sexually provocative clothing as defined by the Service Site Agency.
5. Member will not remove shirt or wear sunglasses indoors while serving.
6. Clothing must not portray, suggest, or represent alcohol, tobacco, and other drugs or promote negative or controversial images based upon gender, religion, sexual orientation, age, creed, or political beliefs. Clothing must not promote a violent lifestyle or suggest gang affiliation.
7. Member, during service hours or while in uniform, must not purchase, consume, or serve alcohol or drugs at any time.
8. If member reports to the Service Site wearing inappropriate clothing, member will be sent home to change. Service hours remove shirt will not accrue until Member returns to the site in proper attire.
9. Member must wear an AmeriCorps uniform at specific events and comply with the Service Site Agency's uniform policy when serving.

###### 14. Safety Requirements

a. Member must adhere to all safety rules. Member may be required to sign a safety policy for Lead Agency and/or Service Site.

b. Member must report to a supervisor any accidents/injuries occurring while serving and follow procedures accordingly.

15. Member will notify his/her supervisor and/or the Lead Agency immediately should any of the following occur during their term of service:

a. Criminal charge of any kind;

b. Arrest of any kind;

c. Conviction of any crime.

# *F. PERFORMANCE EVALUATIONS*

The Service Site must conduct and provide a record to of at least a Midterm and End-of-Term written evaluation of your performance. The focus of the evaluations will be on quality of service, willingness to take initiative, service ethic, completeness of tasks, skill, commitment, etc. You will receive copies of your performance evaluations. Service Sites reserve the right to administer performance evaluations more than twice during a term of service. The performance evaluation is intended to:

* Enhance your performance and ensure effective Service Site operations;
* Summarize formal and informal performance discussions held throughout the review period;
* Document performance areas where you are satisfactorily meeting program standards;
* Document performance areas in which you need improvement;
* Establish goals and objectives to accomplish performance plans; and
* Correct performance and/or behaviors that are not meeting program standards.

#### G. UNUSUAL, GRAVE, OR DANGEROUS SITUATIONS

Due to the nature of the behavior or situation, the Service Site supervisor will need to take appropriate action for the following circumstances. The Service Site supervisor may need to take immediate action for safety purposes. This may include suspending you without pay until an investigation of the situation takes place, and/or other progressive discipline methods (which may include termination from the program for cause). Based on the findings, you may or may not accrue service hours during the investigation.

The following is not an all‑inclusive list, but a general guideline of unusual, grave, or dangerous situations:

1. Your actual or suspected behavior that results in concern about the safety of a child or other people in the service setting,
2. Not following the directions or instructions communicated by the Service Site supervisor or designated staff,
3. Verbal or written threats to anyone at the Service Site or while serving,
4. Fighting (physical or verbal) during service,
5. Falsification of employment and education verification and information,
6. Falsification on any and all records and documents used in the PCA CA AmeriCorps Program, including, but not limited to: program documentation, childcare documents, enrollment verification documents, medical releases/records, criminal background, service hour logs,
7. Use of abusive language,
8. Violation of safety rules,
9. Stealing/taking AmeriCorps or Service Site’s property or property of another,
10. Breech of confidentiality,
11. Violation of rules of common decency, morality or gross insubordination,
12. Accusal or suspicion of child abuse,
13. Receipt of Subsequent Arrest Notification from the Department of Justice (DOJ),
14. Charged or convicted of a misdemeanor, or
15. Charged with a felony.

***H. NON‑NEGOTIABLE CODE OF CONDUCT***

The following offenses will result in automatic termination for cause:

1. **Felony conviction**. Any member who is convicted during the service year of a felony must notify their Service Site Supervisor immediately and will be terminated for cause.
2. **Violent Misdemeanors**. Misdemeanor convictions of a violent nature or those that may cause reason to believe that member is a potential threat to Service Site or service recipients.
3. **Violence and weapons at the service site**. Possession or sale of weapons during service is prohibited. Members also may not engage in physical, verbal or emotional violence, threats, abuse or harassment. Members who engage in these activities will meet with PCA CA and will be dismissed from the program for cause.
4. **Drugs and alcohol**. Member may not possess, deal or use controlled substances. If member is suspected of being under the influence of alcohol or drugs at the Service Site, member will be suspended according to the suspension policies. Following an investigation, if it is determined that member was under the influence of alcohol or drugs either at the Service Site, during service hours, or while in uniform, member will be released for cause.
5. **Unsupervised and unauthorized contact with minors**. Member is prohibited from having any contact with minor age children involved in the **PCA** **CA** AmeriCorps Program during non‑service hours, unless special written permission is given by member’s Service Site Supervisor and Lead Agency prior to the contact. During service hours, another adult must supervise any one‑on‑one interaction with minor age children by member, unless member is authorized for such interaction. Because of the difficulty in investigating improper behavior with a child, the lack of witnesses in the above situations, and the inherent risk to the child, if member violates these policies, member will be terminated immediately for cause.

Section VII.

**COMMUNICATION AND COACHING**

# *A. RELATIONSHIP-BASED AND REFLECTIVE ORGANIZATIONS*

# PCA CA has adopted a Relationship-Based and Reflective Philosophy in order to create a supportive and productive work environment for staff and as a best practice in the field of prevention. Key components of this philosophy are:

# Parallel Process: acknowledgement that one relationship has an affect on other relationships

# Self-Reflection: the ability to recognize one’s own thoughts, feelings and behaviors

# Careful Observation: using one’s senses to thoughtfully notice what is happening

# Flexible Response: the ability to adjust one’s responses based on information gained from self-reflection and careful observation and receiving input and feedback from others.

# Through the implementation of these components PCA CA is able to strengthen relationships between member, staff, partners, families and the community. There are also seven guiding principles of Relationship-Based and Reflective Practice used as a framework to help inform the “ways” in which work is done. The seven principles are:

1. Mutuality of Shared Goals: A mission statement is communicated to all staff and each individual understands how their specific work contributes to overall organizational goals. When possible, staff and/or consumers have input into the formation and/or modification of goals.

2. Commitment to Evolving Growth and Change: The organization is characterized by an ability to learn from experiences, question the status quo, and make changes to ensure mission/vision and policies and procedures accurately reflect the organization’s goals, needs and values.

3. Commitment to Reflecting on One’s Work: Staff at all levels is encouraged to take time to reflect and learn from experiences and to express challenges and successes in their work. This process is implemented through regular supervision meetings and other staff development opportunities.

4. Respect for Individuals: Acceptance of differences, including individual strengths and vulnerabilities are promoted through respectful attitudes that build, trust and esteem between staff members.

5. Sensitivity to Context: Acknowledgment that the environment has an affect on the individual and the individual has an affect on the environment. The organization promotes flexible responses based on careful observation and consideration of the well-being of individuals and the organization as a whole.

6. Open Communication: High value is placed on thoughts, ideas and feedback from all staff. This is demonstrated by the frequent and reciprocal nature of communication in the workplace. A safe environment for open communication is created by leaders and staff appears comfortable sharing openly.

7. Setting Standards for Staff: Accepted definitions of professional excellence are widely disseminated, and all staff is regularly encouraged to learn and grow toward these organizational standards (norms).

# *B. COMMUNICATION*

The Lead Agency and the Service Site are dedicated to building a successful working relationship with you. The PCA CA AmeriCorps Program recognizes that you are learning new tasks and developing life‑long skills, and that everyone learns at different rates and through different training models. The PCA CA AmeriCorps Program will strive to communicate expectations through regular, open, two-way communication between you, your supervisor, program staff, and other members. You can expect the following:

1. A Position Description that outlines your service duties and requirements upon enrolling in the PCA CA AmeriCorps Program.
2. A PCA CA AmeriCorps Member Handbook outlining PCA CA AmeriCorps Program Benefits, Member Policies, Member Requirements, Non-Negotiable Code of Conduct, and Progressive Discipline.
3. Current program information, relevant policies, procedures and requirements of the program at the time of your orientation and throughout your term of service.
4. Supervisors will use coaching techniques to help you develop new skills and meet program expectations.
5. You are responsible for communicating regularly with your supervisor to address and resolve any issues that arise, including matters which affect your service-related duties, the community and agencies in which you serve and your relationships with other members, staff and clients.

**Open Door Policy**

In addition to weekly supervision meetings, you are encouraged to communicate any concerns, complaints, or inquiries directly to your supervisor. Supervisors can then decide, with your input, if they need to meet urgently, or if the issue can wait for your weekly appointment. If you feel that you are not able to address concerns or issues with your supervisor in a way that meets your needs, you may contact the Lead Agency. In the rare instance that you are still unable to reach resolution by working with the Lead Agency, you may contact PCA CA for assistance. PCA CA will work with you, the Lead Agency, and your supervisor to achieve a mutually agreeable outcome.

# *C. COACHING*

# Purpose

Coaching means unlocking your potential and helping you improve your problem solving and planning skills. Your supervisor’s role as a coach is to help you define your personal and professional goals and provide you with the information, resources, knowledge and skills you need to achieve your goals. Through coaching, two equally significant objectives are accomplished:

1. Individual and program performance is improved, and
2. Your capacity is developed.

# Plan for Action

All coaching sessions should be concluded with completing a Plan for Action for you and your supervisor to reference as the “next steps” are carried out. The Plan for Action should include the following:

1. Behavior or performance issue(s) being discussed,
2. Clear expectation for the behavior or performance issue,
3. Goal(s) determined during the coaching session,
4. Options discussed,
5. Next steps; what you will do, what your supervisor will do,
6. Timeframe in which the next steps will be completed and reviewed,
7. Signatures from both you and your supervisor.

You should keep copies of all Plans for Action. In the event that you fail to act upon the Plan for Action, progressive discipline will be implemented with a Corrective Action Plan.

# *D. THE GROW MODEL*

The PCA CA AmeriCorps Program endorses the GROW model for coaching you toward your highest potential and for addressing behavior and performance issues that are not meeting program standards. The objectives for the GROW model are to:

1. Establish communication between you and your supervisor,
2. Create a “win-win” environment for both you and your supervisor,
3. Create an environment of open, concise communication to discuss service-related issues,
4. Establish expectations for behavior and performance, and
5. Establish time frames for improvement of behavior and performance.

In the GROW model, the overall context is one of increasing your awareness of self and surroundings and sense of responsibility for learning. Your supervisor facilitates this process by using questions to guide you in exploring what needs to happen to improve performance. The elements of the GROW model are as follows:

1. G – Goal-setting for the meeting, short-term and long-term
2. R – Reality checking to explore current situation
3. O – Options and alternative strategies, or courses of action
4. W – What is to be done, when, by whom, and the will to do it

# Typical GROW Model Coaching Questions

The following is a sample list of the coaching questions that may be used to help you work on a variety of issues or problems.

# Goal

1. What is the goal of this meeting?
2. What do you want to achieve (short-term and long-term)?
3. By when do you want to achieve it?
4. How is your goal positive, challenging, attainable and measurable?

# Reality

1. What (when, where, how much) is happening now?
2. Who is involved?
3. What have you done about this so far?
4. What results did that produce?
5. What is happening both internally and externally?
6. What are major constraints to finding a way forward?

# Options

1. What options do you have?
2. What else could you do?
3. What if…?
4. Would you like another suggestion?
5. What are the benefits and costs of the alternatives?

# Will

1. What are you going to do?
2. When are you going to do it?
3. Will this meet your goal?
4. What obstacles could you face?
5. How will you overcome them?
6. Who needs to know?
7. How will you get their support?
8. What is the likelihood of you carrying out this action?

Section VIII.

**PROGRESSIVE DISCIPLINE**

# *A. DISCIPLINE*

In the unfortunate situation(s) when “coaching” is not adequate due to the severity or consistency of a breach of the PCA CA AmeriCorps Program’s expectations, the following Progressive Discipline Procedure will be utilized. This procedure has been set to:

* Ensure the policies and procedures set forth by this program and the Service Site are followed and
* Maintain communication between you, your Service Site supervisor, and the Lead Agency.

The PCA CA AmeriCorps Program may discipline you at will, through written warnings or suspension without living allowance or credit for service hours missed. Supervisors may commence progressive discipline procedures for violations of AmeriCorps Member Requirements (Section 6), rules of the Service Site, or your inability or unwillingness to follow through on Corrective Action Plans (See Section 7).

***B. Progressive Discipline Procedure***

The PCA CA AmeriCorps Program endorses the Progressive Discipline method for addressing on-going behavior and performance issues that are not meeting program standards. The objectives for using progressive discipline are to:

1. Establish communication between you and your supervisor,
2. Create a "win‑win" environment for both you and your supervisor, with an environment of open, concise communication to discuss service‑related issues,
3. Establish requirements for behavior and performance,
4. Establish timeframes for improvement of behavior and performance, and
5. Establish consequences for behavior and performance if there is no improvement and program standards are still not being met.

You will be advised that if behaviors and/or performance do not improve to the degree of meeting the set standard, you are jeopardizing your position with the PCA CA AmeriCorps Program. In addition, you are jeopardizing your education award. It is the goal of the PCA CA AmeriCorps Program to provide clear communication with you so that you can correct the behavior and/or performance.

If there are any violations of the PCA CA affiliated AmeriCorps policies or procedures, you can expect disciplinary action. Discipline may take the form of verbal warnings, written warnings, corrective action plans, suspension, and/or termination.

**Verbal Warning**

A verbal warning may or may not be applicable in all situations. A verbal warning may be appropriate for a first-time, minor infraction of a PCA CA AmeriCorps Program policy or procedure. Your supervisor will:

1. State the unacceptable behavior or situation referring to the Handbook.
2. State how the behavior or situation is to be corrected, and give a time frame for improvement.
3. Advise you of the consequences if the behavior or situation is not corrected.

**Written Warning Notification**

A written warning may or may not be applicable in all situations. If the behavior or situation becomes a pattern with at least one coaching session, a written warning is the next step in informing you that your behavior/situation is unacceptable. The written warning instructs you that the behavior or situation must be corrected within a designated timeframe. Your supervisor will:

1. Establish the seriousness of the behavior or situation.
2. Provide verbal and written communication directly to you.
3. State the unacceptable behavior or situation referring to the Handbook.
4. State how the behavior or situation is to be corrected, and give a time frame for improvement.
5. Advise you of the consequences if the behavior or situation is not corrected.

You must sign, date and receive a copy of the Written Warning Notification. The Lead Agency and PCA CA will be notified and involved if you are at the disciplinary level of a written warning.

**Suspension**

Depending on the nature of the situation, suspension may be necessary. You may not receive a living allowance or other benefits during a period of suspension. In all situations where suspension is likely to occur, the PCA CA Project Manager will be notified. Your supervisor will:

1. Establish the seriousness of the behavior or situation.
2. Provide verbal and written communication directly to you.
3. State the unacceptable behavior or situation referring to the Handbook.
4. State how the behavior or situation is to be corrected, and give a time frame for improvement.
5. Advise you of the consequences if the behavior or situation is not corrected.
6. Initiate the suspension in the web based reporting system.

**Pre-Termination Notice**

A Pre‑Termination Notice may or may not be applicable in all situations. When a behavior or situation has not been corrected, your Service Site Supervisor, with the Lead Agency, will issue a Pre‑Termination Notice to you verbally and in writing. The PCA CA Project Manager will also be notified of the Pre-Termination Notice. Your supervisor will:

1. Describe the unacceptable behavior or situation,
2. Provide a time frame for results to be achieved in order for you to continue as a member of the PCA CA AmeriCorps Program, and
3. Inform you of the consequences if you do not correct the behavior or situation set forth in the progressive discipline notice (including termination from the PCA CA AmeriCorps Program).
4. Sign and date the Pre-Termination Notice, obtain your signature, and give you a copy of the notice.
5. If attempts to contact you are unsuccessful, then the pre-termination letter will be sent via certified mail/return receipt requested to the address on file for the AmeriCorps member.

### Termination Notice

When a behavior or performance situation has not been corrected in accordance with the Pre-­ Termination Notice, you may receive a Termination Notice. Your supervisor will:

1. Obtain prior approval for the termination. This approval must be granted by authorized personnel at the Lead Agency and PCA CA.
2. Draft a termination notice that describes the unacceptable behavior or situation, the attempts to provide coaching and progressive discipline, and states that the consequence is termination from the PCA CA AmeriCorps Program.
3. Schedule a meeting between you, the Service Site, and the Lead Agency to review the termination letter and for all parties to sign and receive a copy.
4. Attempt to contact you, but if these attempts are unsuccessful, the termination letter will be sent via certified mail/return receipt requested to the address on they have on file for you.

When you have completed the termination paperwork, your final living allowance, if applicable, will be requested and forwarded to you.

#### C. RELEASE FROM TERM OF SERVICE FOR CAUSE

You may be suspended without pay until an investigation of the situation takes place and/or other progressive discipline methods have been explored. Depending on the individual situation, your Service Site supervisor may need to take appropriate measures, including immediate action for safety purposes. This may include terminating you from the program for the special situations as listed in Section 6, subsections G and H. If you are released for cause, you will not receive any portion of the education award.

***D. Resumption of Service after Release***

If you are released for cause, and wish to reapply to the program from which you were released, or to any other AmeriCorps program, you are required to disclose the release to that program. Failure to disclose to an AmeriCorps program will render you ineligible to receive the AmeriCorps education award, even if you have successfully completed the term of service.

Section IX.

**AMERICORPS MEMBER GRIEVANCE PROCEDURE**

***GRIEVANCE PROCEDURES***

Per 45 CFR § 2540.230, PCA CA has established and maintains a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance from CNCS. The 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 CNCS's inspector general.

A. Alternative dispute resolution.

i. 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.

ii. 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 party 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

i. Arbitrator

a. 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.

b. Appointment by CNCS*.* If the parties cannot agree on an arbitrator within 15 calendar days after receiving a request from one of the grievance parties, CNCS’s Chief Executive Officer will appoint an arbitrator from a list of qualified arbitrators.

ii. Time Limits

a. 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.

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

iii. 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 CNCS assistance may include:

i. Prohibition of a placement of a participant; and

ii. In grievance cases where there is a violation of nonduplication or nondisplacement requirements and the employer of the displaced employee is the recipient of CNCS assistance:

a. Reinstatement of the employee to the position he or she held prior to the displacement;

b. Payment of lost wages and benefits;

c. Re-establishment of other relevant terms, conditions and privileges of employment; and

d. 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*.* CNCS 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.

Appendix A

**SPECIAL LEGAL ISSUES FOR AMERICORPS MEMBERS**

**Introduction**

The National and Community Service Trust Act of 1993 together with the National and Community Service Act of 1990 authorize the federally funded initiative aimed at coordinating a nationwide community service effort. This program is designed to benefit both the communities in need of service as well as the individuals willing to offer the time and effort to serve these communities.

The two laws, now collectively known as the National and Community Service Act, (hereinafter referred to as "The Act,") authorize several types of programs that involve a wide variety of "participants." This booklet addresses legal questions relevant only to those programs receiving grants under Division C of the Act, commonly referred to as AmeriCorps\*National/State (hereinafter referred to simply as "AmeriCorps") programs.

This booklet addresses several of the legal dilemmas most often encountered by program directors and administrators. To answer these questions, these materials will attempt to refer to and to explain the applicable laws as they pertain to AmeriCorps program circumstances. Unfortunately, few simple answers exist. In several instances, unresolved conflicts among various laws and/or the absence of clear authority place definitive answers out of reach. In such situations, this booklet offers alternative approaches and suggestions, together with an analysis based on the advice of officials who have the responsibility to administer the Act or the tax, labor or benefit laws in question.

Part I of the booklet discusses the general legal status of those who participate in AmeriCorps programs, a determination that factors heavily in the ways in which members are treated for the purpose of tax, employment and benefit laws. Part II offers more detailed descriptions of several individual laws and delves more deeply into the manner in which these statutes have been applied to AmeriCorps personnel.

In creating this booklet, the authors have attempted to present a thorough and accurate discussion of each topic. Nevertheless, readers should understand that this text is neither an exhaustive nor definitive source on any of the legal issues addressed within. Where no answer exists, this booklet attempts to direct readers to additional resources available to respond to specific questions. There may be instances when those who refer to this publication will still need to consult with legal counsel or to confer with local administrative authorities for opinions regarding specific circumstances. Even where additional consultation becomes necessary, this booklet should serve as a valuable reference for educating legal professionals and government officials still unfamiliar with the unique statutory provisions applicable to AmeriCorps.

The suggestions of many program administrators contributed greatly to the contents of the ensuing pages. With each revision of this text the personal experiences of these individuals have conferred a degree of accuracy that no casebook or legal tome could possibly offer. The contributions of these administrators and the efforts of all those AmeriCorps personnel who braved the legal frontier created by the early days of national service are greatly appreciated. In addition, because not all the legal dilemmas have yet been resolved, readers of this newest edition of this booklet are invited to contact the Nonprofit Risk Management Center or the Corporation for National Service whenever their experience differs from the information provided in the pages which follow.

**Part I**--**"Participant," The Legal Name for AmeriCorps Members**

As they perform service, AmeriCorps members rarely hear themselves referred to as "participants." Nonetheless the term "participant" is the very name chosen by the Congressional drafters of the National and Community Service Act of 1990 and the National and Community Service Trust Act of 1993 to identify the individuals who serve in AmeriCorps programs. Thus the term "participant" plays a crucial role in determining the way AmeriCorps members are affected by federal and state tax, employment and benefit laws.

By classifying members as "participants," Congress created an entirely new category of personnel, distinct from both "employees" and "volunteers." With this new classification, Congress offered federal and state administrators a serious dilemma. These officials were accustomed to administering tax, labor and benefit laws in one way for "employees" and often in a very different way for "volunteers." Few, if any administrators, had a clue as to how to apply these same laws to a brand new entity known as "participants."

As a solution, many of these officials chose the easiest option; to lump "participants" together with "employees" for the purpose of determining their legal rights and responsibilities. In so doing, these officials ignored Congress' intent to distinguish "participants" from both "employees" and "volunteers." As a program administrator, it will be your job to assist public officials in understanding the unique legal status of your members. The ensuing materials will guide you in these efforts.

**A. Why "Participants" are Not "Employees"**

Is a "participant" an employee? The simple answer to this question is "no." Congress never intended for "participants" to be considered employees. In fact, in the very Act that created AmeriCorps, Congress defined "participants" as follows:

"A participant shall not be considered to be an employee of the program in which the participant is enrolled."

Throughout the Act and its accompanying regulations, Congress and the Corporation for National Service have gone to considerable lengths to distinguish program "participants" from ordinary "employees." Not only are "participants" not to be defined as "employees," but they must also never function as employees. More specifically, the Act and the regulations prohibit members from performing any work that would place them in competition with the employees of local businesses or other entities. The very purpose of the National Service initiative, as drafted into the legislation by Congress was to "meet the unmet human, educational, environmental, and public safety needs of the United States, *without displacing existing workers."*

Numerous provisions within the Act and its regulations prohibit programs from allowing members to engage in "employment" activities. For example, the drafters of the legislation devoted an entire section to the topic entitled "Nonduplication and nondisplacement." In this provision, Congress prohibits programs from using "participants" to perform any services or duties that would otherwise normally be performed by an employee. "Participants" must never displace employees or eliminate employment positions. Employers may not use "participant" service to reduce ordinary employee hours, wages or employment benefits. An ordinary employee's right of promotion may never be threatened due to "participant" service.

To avoid these prohibited activities, grant applicants must research their local business communities before applying for funds. The Act requires that grant applicants include within their applications assurances that they will:

prior to the placement of "participants," consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program to ensure compliance with the non-displacement requirements specified in section 12637 of this title.

As another precaution against displacing paid employees, the regulations prohibit programs from selecting any prospective participant who is or was previously employed by a prospective project sponsor within six months of the time of the participant's enrollment in the AmeriCorps program.

Other differences distinguish "participants" from ordinary employees. One major distinction revolves around the question of who benefits from AmeriCorps service. In the average employment situation, it is the employer who profits from employee labor. In contrast, with AmeriCorps, the programs derive little benefit from member service. Instead, the "participant" serves to benefit his or her community and at the same time earns meaningful life experience. Moreover, "participants" do not receive all the perquisites of employment, yet they are entitled to some benefits, such as education awards and student loan deferments, that exceed the rights of the ordinary employee.

Finally, although employees work for extended periods, a "participant's" term of service is limited by the set time and the expectations of his or service position. Full time "participants" enroll in a term of service of one year in duration, which may be repeated in some cases. Summer "participants" generally serve less than three months. Regardless of the specific program, "participants" do not enroll with an expectation that their service will continue for an indefinite amount of time, nor do they anticipate that their participation will result in permanent employment.

It would seem that the Act, its regulations and the obvious disparities between "participants" and their employee counterparts would collectively establish that "participants" are simply not "employees." But if "participants" are not "employees," then they must be *something* else. And if they are not "employees," then what did Congress intend them to be? As volunteers, "participants" may lose certain legal benefits, intended by Congress to protect AmeriCorps members. As independent contractors, "participants" might encounter additional legal responsibilities, not born by the average employee. Would either of these alternatives comport with Congress' plan for the members of AmeriCorps programs? If not, would "employee" status be preferable? To answer these questions, and to ultimately determine the correct tax, labor and benefit treatment for "participants," we must ask, "what personnel classification would best accord with the wording of the National and Community Service Act, read in the light of the purposes to be achieved by its enactment?"

**B. Why "Participants" are Not "Volunteers"**

Perhaps "participants" should fall into the "volunteer" category. This would be a reasonable assumption in that the work performed by "participants" bears many of the characteristics of volunteer service. For example, "participant" labor benefits the community and the "participant" far more than it lines the pockets of an employer.

Although "participants" receive a living allowance and/or stipend, these cash awards do not actually compensate "participants" beyond enabling them to maintain themselves during the service period. As already discussed above, as a matter of law, "participants" may not compete with the labor force. They can perform no task that would replace the work done by any ordinary laborer.

Despite the apparent similarities between "participants" and "volunteers," the Act itself suggests a contrary conclusion. The legislation distinguishes "participants" from "volunteers," when it creates a definitionally distinct "adult volunteer" category of service personnel. Unlike "participants," who receive a variety of benefits as part of their service experience, "adult volunteers" work "without financial remuneration. Through this statutory provision, Congress appears to communicate a distinction between "participants" who receive compensation (living allowance, education awards) and volunteers who do not. However, "participants" may be considered volunteers if that result is most consistent with their circumstances and with the intent of the drafters of the legislation.

**C. Independent Contractors?**

Some laws distinguish employees from independent contractors. Most "participants" have none of the characteristics of independent contractors. For example, independent contractors work primarily without direct supervision and set their own hours. In contrast, "participants" work under the direction of AmeriCorps program personnel, during hours set by the AmeriCorps program. Thus, they should not be considered independent contractors unless, when applying the applicable state or federal law, that becomes the only alternative that would comport with Congress' intent.

**D. "Participants" are Simply "Participants"**

"Participants" bear a mixture of characteristics derived from both traditional employee and volunteer classifications. What does this mean to state and federal administrators who must apply tax and employment laws designed only to distinguish between employees and volunteers? How must government officials interpret the laws to determine the correct applications? The truth is that the application of each law may require a different interpretation. For some laws, participants may need to be treated as employees. For other statutes, volunteer status may be the only classification that will enable "participants" to be treated in the manner intended by Congress. In many cases, program administrators will need to help administrative officials look to the intent of the law at issue and to the purpose for which the law was drafted in order to understand whether and, if so, how it should apply to "participants."

To say the least, "participants" hybrid status makes an interpretation of the laws confusing. It may be necessary to classify "participants" as employees for some limited purposes and as volunteers for others. Making these decisions and then persuading federal and state officials to share these interpretations will sometimes pose a burdensome task for those who administer AmeriCorps programs. Nonetheless, the success of national and community service may depend, at least in part, upon the understanding and cooperation of the officials who apply the laws that impact upon the rights and responsibilities of AmeriCorps members.

**Part II**--**Key Legal Issues**

**A. Taxation of "Participant" Benefits**

The Act makes very few references to the taxation of benefits received by "participants." These few statutory and regulatory directions, together with an analysis of several pertinent sections of the Internal Revenue Code, strongly suggest that AmeriCorps members should be treated as "employees" for most income tax purposes. This interpretation appears to best carry out the intent of the drafters of the national service laws. The following paragraphs discuss this analysis and identify the income tax and social security tax responsibilities of both programs and members.

**1. Standard Income Tax and** **FICA Rules Apply**

The National and Community Service Act itself does not authorize any special tax treatment for AmeriCorps "participants." (In contrast, special income tax and Social Security (FICA) rules do exist for Peace Corps members and for "participants" in some other federal service programs.) The Act does, however, make a single reference to FICA taxes, indicating the Corporation's obligation to provide financial assistance to cover a percentage of certain FICA taxes, to the extent that they are imposed upon participating programs. This statutory reference suggests that Congress contemplated that AmeriCorps members would probably be deemed liable for at least some forms of income and FICA tax.

In light of the absence of a general statutory exemption, and in accordance with Congress' recognition of members' potential tax liabilities, programs should assume that standard income tax and FICA rules will apply to their members. Thus, unless an item provided to AmeriCorps members is subject to a specific tax exception, (e.g., health insurance and child care) all cash and in-kind benefits received by AmeriCorps members will be subject to payroll taxes. Since the IRS taxes "all income from whatever source derived" you must generally withhold income taxes and FICA contributions from all cash and in-kind benefits you distribute. AmeriCorps Grant Provisions for 1996-1997 instruct program grantees to withhold personal income taxes from member living allowances, requiring each member to complete a W-4 form at the beginning of the term of service. Grantees must also provide a W-2 form to members at the close of the tax year. In addition, the Grant Provisions instruct grantees to pay 15.3% FICA for any member receiving a living allowance. Half of this amount, 7.65%, is paid by the program and the remaining half is deducted from the member's living allowance. (Note: Some services performed while in the employ of a state or political subdivision thereof may be exempt from FICA.)

Income tax exceptions that apply to the income of ordinary employees will similarly apply to the benefits received by "participants." For example, a "participant" may qualify for an exception that permits an employer not to withhold any tax for an individual who incurred no tax liability in the preceding year and expects to incur none in the current year. The rules applying to FICA do not include a parallel exception.

Although you will be paying your members "taxable" benefits, some "participants" may not earn sufficient income to incur income tax liability. An individual must reach a specific earnings threshold before he or she will actually owe income tax. (Those who do not earn sufficient income may still be obligated to pay FICA.) Consequently, these members will be entitled to a refund for any tax you may withhold from their compensation.

Generally, state tax rules follow federal income tax practices. Some state codes include laws that allow for exceptions that do not appear in the federal tax code. For that reason, be sure to familiarize yourself with your own state laws regarding the tax treatment of volunteers and service organizations.

**2. Living Allowances**

To the extent that living allowances constitute "compensation for services," they are taxable under the Internal Revenue Code and are subject to withholding just as if they were wages paid to employees. Living allowances are a form of income and are thus subject to federal income tax. Similarly, the definition of "wages" used for FICA is broad enough to include living allowances. Unless the program has obtained a special AmeriCorps exemption from FICA requirements, it will be responsible for collecting and/or withholding both the employer and employee portions of FICA from the living allowances of its members.

**3. Non-Cash Benefits**

In-kind benefits, such as meals, lodging, uniforms, health insurance and child care, are subject to special tax rules. These forms of compensation are commonly referred to as "in-kind benefits" or as "non-cash benefits." Although the IRS generally treats these benefits as taxable compensation, exceptions exist that will exempt from tax most of the non-cash benefits "participants" may receive.

Meals, for example, are an exempt benefit if they are provided for the convenience of the program, on program premises or at the work-site. Meals furnished before or after working hours or on non-working days generally do not qualify for the exclusion.

Lodging provided to "participants" will be exempt only if three conditions are met. The lodging must be

* furnished for the convenience of the program;
* located on the program premises or at the work site;
* required as a condition of service to enable members to better perform their duties.

FICA rules similarly exempt meals and lodging provided under these limited circumstances.

AmeriCorps programs must provide a basic health care policy for each full-time AmeriCorps member who is not otherwise covered by health insurance. Health insurance of this type qualifies for a specific income tax exemptions.

The Act also requires programs to provide child care or a child care allowance to individuals who require child care in order to participate. Child care programs, distributed either as child care or as funds to obtain child care, that meet IRS requirements for a "Dependent Care Assistance Program," should qualify for a tax exemptions.

Some programs may require their "participants" to wear uniforms while performing service. An exception applies to uniforms that must be worn for employment, if the garments are unsuitable for everyday wear. If, for example, your program provides air filter masks to enable your "participants" to work in particularly dusty jobs, these masks will likely qualify for the exemption, since it is improbable that your "participants" will wear these masks on their next trip to the mall. In contrast, T-shirts bearing the AmeriCorps logo, that can be worn for both AmeriCorps and non-AmeriCorps activities, might not qualify for a tax exemption. The same T-shirts might qualify for a separate exemption afforded *de minimis* fringe benefits.

*De minimis* fringe benefits encompass inexpensive items occasionally given by an employer to an employee. If the item has too much value, or if the employer gives it too often, then the value of the benefit will be subject to income tax and FICA. Typical *de minimis* fringe benefits include holiday gifts, coffee and doughnuts, soft drinks, local telephone calls, and use of the copy machine.

In-kind benefits that do not qualify for a tax exemption must be assigned a dollar value for tax purposes. You will be responsible for determining the fair market value of the goods distributed and for withholding the tax from the participant's living allowance or other cash income. Generally, the fair market value of a benefit is the amount an individual would have to pay for the item at a local store or restaurant.

**4. Reimbursements**

On occasion, your program may reimburse participants for expenditures they make while performing their service. Some of these reimbursements will qualify for a tax exemption, while others will constitute taxable income. As a rule, a "participant" may deduct a reimbursement for an item that itself would be exempt from tax. An exception applies to food and lodging allowances. Although the IRS exempts in-kind allowances of food and lodging under certain limited employment circumstances, cash reimbursements for these items do not qualify for a similar exception. A cash reimbursement for an item that the member purchases for the use of the program rather than for his or her personal use, will qualify for a tax exemption.

**5. Earned Income Credit**

Some "participants" will qualify for a special tax benefit for low income earners. The federal tax code provides a refundable earned income credit to certain low income workers who have earned income and who meet adjusted gross income thresholds.The credit is based on earned income, which is defined to include all wages, salaries, tips andother compensation, in addition to self-employment net earnings.

Workers with and without "qualifying children" are eligible for this credit. A qualifying child is an individual who satisfies a relationship test, a residency test and an age test, and for whom the taxpayer satisfies an identification requirement. A "qualified child" must be the taxpayer's child, a descendant thereof, adopted child, stepchild, or eligible foster child. Even a married child may satisfy the requirement, if he or she entitles the taxpayer to a dependency exemption. The child must reside in the taxpayer's residence for more than half of the tax year. The child must be under age 19, but can be as old as 24, if a full-time student.

Taxpayers without qualifying children may only qualify for the credit if their principal residence is in the United States for more than one half of the tax year, they (or their spouse) are between the ages of 25 and 65 and they are not claimed as the dependent of another taxpayer.

To receive the Earned Income Tax Credit, a participant must fill out the necessary paperwork with the IRS. Members may obtain the necessary forms and instructions from the local IRS office or a Volunteer Income Tax Assistance program.

**6. Post-Service Benefits**

The Corporation for National Service directly administers all federally funded National Education Awards. Consequently, individual programs bear no responsibility for withholding or paying any income or employment taxes on these post-service benefits. Programs should, however, alert "participants" to their tax obligations for these awards.

The IRS has determined that AmeriCorps Education Awards are subject to income tax. Tax liability exists even though most recipients of these awards never receive any of these benefits as cash directly in hand. Tax liability arises on any award that passes directly from the Corporation to the vocational school, university, lender, or school to work program designated by the participant. In addition, since a "participant" frequently postpones his or receipt of the Education Award for up to seven years following service, any and all interest accumulated on the award and paid by the Corporation becomes similarly subject to tax.

The Corporation does not withhold income tax or FICA on these post service benefits. Members will need to budget for the income tax liability that will accompany the use of their education award. The question of whether these benefits are subject to FICA and Medicare employment taxes has never been resolved. The Corporation will apprise programs and members when and if the IRS or other governmental authorities render a decision on this question.

In the year that it issues an education award, the Corporation also issues a 1099 form to the Internal Revenue Service, alerting the agency to the distribution of the award. Unfortunately, on occasion, upon notification of the distribution, the IRS has erroneously notified the award recipient of his or her obligation to pay self-employment tax. Self-employment tax must only be paid on "the gross income derived by an individual from any trade or business carried on by such individual. For the purposes of this self-employment tax provision, a "trade or business" only arises where the taxpayer engages in an activity with the intention of making a profit. Since AmeriCorps members do not engage in any trade or business of this nature, and since the Internal Revenue Service has determined that AmeriCorps Education Awards constitute gross income, no self-employment tax liability should arise.

The timing of tax liability for post-service benefits follows the general rules for taxation of deferred compensation. Tax liability arises only when a member "constructively receives" the benefit. The IRS has determined that a "participant" constructively receives his or her education award once he or she applies for and receives approval fromthe Corporation for National Service to use the award. Thus, the member must pay tax on the award and any accrued interest in the year that he or she receives the approval. Programs that choose to make post-service awards with non-federal funds should be alert to the potential taxability of these benefits.

The Internal Revenue Code includes two provisions that exempt some education financial awards from tax liability. Unfortunately, the Internal Revenue Service has determined that AmeriCorps Education Awards do not qualify for either exemption. Section 117 of the Internal Revenue Code exempts "qualified scholarships" from tax. To qualify for the exception, these scholarships must not represent compensation given in exchange for labor. To IRS officials, "the educational awards or benefits provided under the National Service program represent payments for services… and, thus, are not excludable from income as scholarships…"

Section 127 of the Internal Revenue Code provides yet another possible exemption applicable to post-service benefits. This code provision excludes educational assistance benefits provided by an employer under a qualified "educational assistance program." Under this code section, up to $5,250 of educational assistance may be excluded from the gross income of an employee during a calendar year. Section 127 does not exclude awards that may be used for the repayment of a previously incurred education loan expense. The IRS has thus determined AmeriCorps Education Awards ineligible for the Section 127 exemption, "because the National Service program provides an option for the repayment of previously incurred educational loan expenses.

**B. Employment Laws**

**1. Status of "Participants"**

For tax law, Congress' design for AmeriCorps members is best served when "participants" are treated as "employees." For *employment* law, this solution does not work equally well. As explained in the first section of this booklet, Congress did not intend for AmeriCorps "participants" to be treated as "employees." In fact, the drafters of the national service legislation went to great lengths to distinguish "participants" from ordinary employees and to prohibit "participants" from engaging in employment activities. This distinction is crucial to the analysis that must be presented to federal and state labor administrators to help them to correctly administer labor laws to AmeriCorps participants.

**2. Wage, Hour, And Child Labor Laws**

Wage, hour, and child employment standards are set by both federal and state law. These laws limit the number of hours employees can be required to work, set the minimum wage, and limit the use of child labor. Neither the federal law (Fair Labor Standards Act or FLSA) nor most equivalent state laws provide a clear test for determining whether these provisions extend to AmeriCorps members. To date, the U.S. Department of Labor has never officially determined whether the FLSA protects AmeriCorps members. Most states have similarly made no official determination. In general, however, for the reasons identified below, AmeriCorps participants have, at least unofficially, been held outside the coverage of most state and federal fair labor legislation.

**3. Fair Labor Standards Act**

For nonprofit organizations, the determination of Fair Labor Standards Act applicability depends upon the answers to a series of questions. These questions, set out below, test the nature of the organization's activities and its relationship with those providing service:

* In addition to its educational, charitable and/or religious functions, does the nonprofit organization operate any commercial activities that involve commerce or the production of goods for commerce?
* Do the individuals who serve in these commercial activities financially depend, as a matter of economic reality, upon the nonprofit organization that they serve?
* Do the individuals who serve the educational, charitable and/or religious functions of the organization engage in activities that involve interstate commerce or the production of goods for interstate commerce?

Affirmative responses to any or all of these questions will subject either the nonprofit organization as a whole, or select groups of its personnel, to Fair Labor Standards Act provisions. The following materials will offer a more detailed explanation of this federal employment law, its accompanying regulations and the manner in which these provisions are currently being applied by the U.S. Department of Labor.

a. *"Enterprise" Coverage*

The Fair Labor Standards Act (FLSA) sets the maximum number of hours an employer can require workers to serve (without overtime compensation) and the minimum wage the employer can pay those workers. The applicability of ELSA protections may depend on the program or organization as a whole, and upon the nature of the work being performed by individual personnel within that organization.

Employment may be covered under the FLSA pursuant to either "enterprise" or "individual" coverage. "Enterprise" coverage relies upon the satisfaction of two conditions. First, the entity must be an "enterprise engaged in commerce or in the production of goods for commerce." Second, the personnel in question must be "employees" within the meaning of the FLSA.

To be an "enterprise," or to be engaged in commerce, the organization must possess at least two employees engaged in commerce, or in the production of goods for commerce. Alternatively, the organization must have at least two employees handling, moving, or selling goods that had previously moved in interstate commerce. Take, for example, an organization that runs a mail order division in which it sells and ships logo embossed T-shirts, mugs, and bumper stickers to supporters around the country. This mail order division will constitute an enterprise, so long as two or more of the organization's personnel staff this division. FLSA coverage also depends upon whether the organization satisfies a dollar amount of sales made or business done annually.

b. *FLSA Applicability to Nonprofit Service Organizations*

In drafting the FLSA, Congress provided no broad exception for nonprofit charitable, religious and educational organizations. In fact, the drafters of the legislation, when expanding the FLSA in 1961 to cover "enterprises," made clear their intent to include nonprofit organizations within the legislation's definition of "employer" or "enterprise." On two separate occasions, Congress explicitly rejected proposals to exempt nonprofit organizations from FLSA coverage. In fact, the FLSA definition of "enterprise engaged in commerce or in the production of goods for commerce" specifically includes many entities commonly considered to be charitably motivated. The definition extends coverage to any enterprise that--

is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit);"

While nonprofit organizations are not generally exempt, some of their activities may fall outside FLSA coverage. The educational, eleemosynary, religious and similar activities of a nonprofit organization are not subject to FLSA enterprise coverage. However, if this same organization conducts commercial activities, such activities will trigger FLSA protection.

Commercial activities generally constitute business endeavors that place the nonprofit organization in competition with ordinary commercial enterprises. As a rule, the U.S. Department of Labor and the courts interpret the law very broadly when considering whether an activity constitutes a commercial enterprise. The FLSA defines "commerce" simply as:

trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

In applying this definition, the courts have not limited commerce to refer to transactions where there are actual commercial sales of the goods produced and transported. Nor do courts restrict FLSA application to situations where large amounts of goods are sent outside the state where produced. If, for example, a charitable organization operates a printing and publishing plant, employees involved in these activities will find themselves under the protections provided by the wage, hour and child labor provisions of the FLSA.

Not all the businesses operated by nonprofit organizations automatically constitute commercial enterprises. For example, federal courts have held that neither a group home for troubled juveniles, nor a shelter that provided food, clothing and housing to the victims of domestic violence, qualified as commercial enterprises for the purposes of the federal employment law.

c. *Individual Coverage*

Even in the absence of a commercial enterprise, individual employees of a nonprofit organization may be covered by the FLSA. Employees receive individual coverage if, in the performance of their duties, they engage in interstate commerce or in the production of goods for interstate commerce. If, for example, employees of a nonprofit organization regularly handle interstate mail and telephone calls, or receive merchandise from out-of-state sources, they must earn the appropriate minimum wage and must receive overtime for all hoursworked in excess of 40 hours per week.

d. *Employee vs. Volunteer*

Neither "enterprise" coverage nor "individual" coverage arises unless the worker in question qualifies as an "employee." The FLSA does not offer much in the way of a definition for the crucial term "employee." An employee is generally defined as "any individual employed by an employer." The law defines "employ" only as "to suffer or permit to work." Neither of these definitions offer the U.S. Department of Labor much guidance for the task of distinguishing "employees" from "volunteers." The Department does acknowledge the existence of a category of workers beyond the coverage of the employment law, as follows:

Individuals who volunteer or donate their services, usually on a part-time basis, for public service, religious or humanitarian objectives, not as employees and without contemplation of pay, are not considered as employees of the religious, charitable and similar nonprofit corporations which receive their services.

In addition, the United States Supreme Court has cited approvingly the Department of Labor's position that altruistic citizens who volunteer to "minister to the comfort of the sick, elderly, indigent, infirm, or handicapped, and those who work with retarded or disadvantaged youth" are exempt from minimum wage and maximum hour laws in almost every circumstance.

e. *Volunteers at Public Agencies*

For the most part, the Department of Labor is left to its own devices to distinguish between employees and volunteers in each individual scenario. The Department receives some guidance from the statutory exception carved out by Congress for individuals who choose to volunteer their services to public agencies. Both public employees and private individuals who perform service for a public agency (a unit of a state or local government), for civic, charitable, or humanitarian reasons without promise, expectation or receipt of compensation for services rendered, are not considered employees under the FLSA. The law severely restricts public employees as to the nature of the service they may provide. The employee of a public agency may not simply waive compensation in exchange for performing his or her ordinary employment services. To legally volunteer at his or her agency of employment, a public employee must perform a service for his or her employer, distinctly different from his or her ordinary activities. The following examples show permissible volunteer activities for public employees:

* A city police officer who volunteers as a part time referee in a basketball league sponsored by the city,
* An employee of the city parks department who serves as a volunteer city fire fighter; and
* An office employee of a city hospital or other health care institution who volunteers to spend time with a disabled or elderly person in the same institution during off duty hours.

Public employees who wish to volunteer services identical to those they normally provide in exchange for salary, may only offer these services to a public agency different from the one in which they are employed. Thus, a receptionist at a *county tax* office could offer telephone answering services at a fund raising event run by a *state* agency. In contrast, a nurse at a state hospital might not be able to volunteer her nursing services at a state run neighborhood health clinic, since both the hospital and clinic could be considered parts of the same public agency.

The regulations also provide a specific exemption for individuals, not employed in any capacity by State or local government agencies, who wish to volunteer their services at a public agency for civic or humanitarian reasons. These individuals retain their volunteer status as long as they are provided with no promise, expectation or receipt of compensation, except for reimbursement for expenses, reasonable benefits and nominal fees. The FLSA places no limitations or restrictions on the types of services that these private individuals may render. The regulations provide the following list of examples of permissible service activities for private individuals:

* helping out in a sheltered workshop;
* providing personal services to the sick or elderly in hospitals or nursing homes;
* assisting in a school library or cafeteria;
* driving a school bus to carry a football team or band on a trip;
* volunteering as firefighters or auxiliary police;
* working with children with disabilities or with disadvantaged youth;
* functioning as camp counselors in youth programs;
* soliciting contributions;
* in civic or charitable benefit programs;
* performing services to carry out charitable or educational programs.

f. *Volunteers at Private Nonprofit Organizations*

In the absence of any statutory or regulatory exemption, the Department of Labor has utilized statutory precedent to formulate an exemption for the *employees* of charitable entities who wish to perform volunteer work for their nonprofit employers. The Department has drafted a set of six criteria that will qualify nonprofit organization employees for an FLSA exemption. Volunteer status will be granted under the following circumstances:

* The services are entirely voluntary, with no coercion by the employer, no promise of advancement, and no penalty for not volunteering;
* The activities are predominately for the employee's own benefit;
* The employee does not replace another employee or impair the employment opportunities of others by performing work which would otherwise be performed by regular employees;
* The employee serves without contemplation of pay;59
* The activity does not take place during the employee's regular working hours or scheduled overtime hours;
* The volunteer time is insubstantial in relation to the employee's regular hours.

In addition, although not specified within the aforementioned criteria, the Department of Labor appears to require that nonprofit employee volunteers offer their uncompensated services in activities distinct from their normal employment duties. Thus, the following would constitute permissible volunteer situations for the employees of a nonprofit public broadcasting television station:

* an administrative assistant or janitor who volunteers to work as a member of the production crew;
* a secretary or bookkeeper who offers to do some announcing and air work.

g. *Compensation*

Although true "volunteers" may expect no compensation in exchange for service, some may still receive reasonable benefits, a nominal fee, or any combination thereof, without losing their volunteer status. No specific amount of compensation separates an employee from a volunteer. The U.S. Department of Labor regulations address this issue with relation to some of the questions raised for volunteers at public agencies. These regulations offer a number of examples of payments, reimbursements, benefits and awards that will not deprive an individual of his or her volunteer status, including:

* A uniform allowance or reimbursement for reasonable cleaning expenses paid to volunteers requiring a uniform to perform their duties;
* Reimbursements for out-of-pocket expenses incidental to providing volunteer services including costs of meals and transportation;
* Reimbursements for tuition, transportation and meal costs involved in attending classes to learn how to effectively perform volunteer services;
* Reimbursements for books, supplies and other materials essential to volunteer training;
* Reasonable benefits including inclusion in group liability, health, life disability and workers' compensation insurance plans and pension plans;
* Awards such as "length of service" awards.

The regulations also permit volunteers to a public agency to receive nominal fees that are neither a substitute for compensation nor are tied to productivity. To determine whether a payment constitutes a "nominal fee" that will not result in a volunteer's loss of FLSA exempt status, the U.S. Department of Labor will examine the following:

* the distance traveled and the time and effort expended by the volunteer;
* whether the volunteer has agreed to be available around-the-clock or only during certain specified time periods;
* whether the volunteer provides services as needed or throughout the year.

The regulations specify that an individual who volunteers to provide periodic services on a year-round basis may receive a nominal monthly or annual stipend or fee without losing volunteer status.

A volunteer who receives any or all of the payments, benefits and fees identified within the regulations does not automatically qualify for an FLSA exemption. The Department of Labor reserves the right to examine each case on an individual basis, explaining:

Whether the furnishing of expenses, benefits, or fees would result in individuals' losing their status as volunteers under the FLSA can only be determined by examining the total amount of payments made (expenses, benefits, fees) in the context of the economic realities of the particular situation.

Courts also look at the "economic realities" of a particular situation to determine an individual's employment status. Using the "economic reality" test, some courts have ruled that an employee is one who is dependent for sustenance upon the business to which he or she renders service. Thus, if a worker expects to receive compensation, whether in the form of cash or in-kind benefits, in exchange for the services rendered, the services constitute "employment." Even the expectation of food and shelter in exchange for labor can create an employment relationship that places the individual within the protections of the federal labor law.

An individual's motivation, such as whether he or she expects compensation for his or her labor, factors greatly in the determination of whether he or she qualifies as a volunteer. Nonetheless, a worker may not simply waive his or her right to FLSA coverage in order to enable his or her employer to escape the wage, hour and child labor provisions. According to the U.S. Supreme Court, FLSA protection may not be waived since:

If an exception to the Act were carved out for employees willing to testify that they performed work "voluntarily," employers might be able to use superior bargaining power to coerce employees to make such assertions, or to waive their protections under the Act.

h. *Other Significant Factors*

In addition to compensation, the Department of Labor looks at other benefits flowing through the relationship. If the employer/organization profits too greatly from the service rendered, his or her gain suggests an employment relationship. In contrast, if the worker secures education and experience at the expense of or even to the detriment of the employer, the flow of benefits suggests an exempt arrangement.

Competition is yet another factor that influences the Department of Labor's evaluation. A volunteer should never displace or replace a member of the workforce. If his or her service jeopardizes the employment of another individual, the Department of Labor is unlikely to grant volunteer status.

i. *Trainees*

Trainees, like volunteers, fall outside the FLSA definition of "employees" and are therefore exempt from FLSA coverage. The Department of Labor has drafted six criteria that distinguish "trainees" from "employees." Because some similarities exist between "trainees" and "employees," this list offers nonprofit organizations additional guidance in discerning the employment status of their service personnel. According to the Department of Labor, if all of the following criteria apply, the trainees or students are exempt from FLSA coverage:

1. the training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;
2. The training is for the benefit of the trainees or students;
3. the trainees or students do not displace regular employees, but work under their close observation;
4. the employer that provides the training derives no immediate advantage from the activities of the trainees or students; and on occasion his operations may actually be impeded;
5. the trainees or students are not necessarily entitled to a job at the conclusion of the training period; and
6. the employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

j. *FLSA Penalties*

Violation of ELSA wage and hour standards can result in liability for the amount of the unpaid wage or overtime as well as in severe financial penalties. Repeat violators can receive fines of up to $1,000.00 for each violation.

k. *FLSA Summary*

The following list summarizes the forgoing materials and identifies the crucial points that will factor in the U.S. Department of Labor's determination as to the nature of the employment relationship of your service personnel:

1. The ELSA offers no general exception for nonprofit organizations.
2. The strictly charitable, educational, and religious activities of a nonprofit organization will be exempt from FLSA coverage.
3. The activities of a nonprofit organization that cause its personnel or products to compete with ordinary employees or business entities will qualify the organization's employees for FLSA coverage.
4. Only the "employees" of a nonprofit organization will receive FLSA protection.
5. "Employees" are those who depend upon the nonprofit entity for economic sustenance in the form of cash or in-kind benefits.
6. "Volunteers" expect no compensation in exchange for service, but may receive nominal fees and benefits while serving.
7. An "employee" may not waive FLSA protection.
8. The more the relationship benefits the employer, the less likely the worker is to be a "volunteer."
9. A "volunteer" must never compete with another employee by replacing, displacing, substituting, or performing work that would otherwise be performed by other employees.
10. Where an "employment" relationship exists, as "employee" can be individually covered by the ELSA even where the nonprofit organization neither constitutes nor operates a "commercial enterprise."

**4. State Wage, Hour and Child Labor Laws**

Each state possesses its own versions of wage, hour and child labor laws. Some of these state laws may apply to workers who have been deemed exempt from the Fair Labor Standards Act. Some state laws are stricter than the federal standard, yet others incorporate exemptions not available under federal statute. Georgia law, for example, authorizes its Commission of Labor to grant exemptions if shown

"the value of allowing certain classes of persons to be employed at rates below the minimum rate because of overriding considerations of public policy to allow employment of certain persons with disabilities and others who cannot otherwise compete effectively in the labor market."

Keep in mind, that an individual who achieves an exemption under state law, does not thereby qualify for immunity from federal wage, hour and child protections. Program administrators should familiarize themselves with the applicable labor provisions of the states in which they operate by contacting their state labor and employment office.

**5. Applicability to AmeriCorps "Participants"**

The forgoing analysis suggests that the FLSA (and most state wage, hour and child labor provisions) *should not* apply to AmeriCorps "participants." The legislation giving rise to AmeriCorps clearly reveals Congress' intent to exempt AmeriCorps members from wage, hour and child labor protections.

As mentioned in Part I of these materials, the drafters of the National Service legislation expressly distinguished "participants" from employees. In addition, Congress designed the service experience in such a way so that wage, hour and child labor protections would prove unnecessary. Because of the nature of the AmeriCorps program, members suffer no risk of exploitation, and the local labor market bears no threat of competition from member service.

The characteristics of AmeriCorps service bear great resemblance to the criteria used by the U.S. Department of Labor to identify true volunteers and trainees, both of whom are exempt from FLSA protections. For example, Congress designed the National Service experience to benefit "participants" more than the programs or grantees. "Participants" obtain experience and other educational opportunities from their service. In most AmeriCorps settings, neither the programs nor the sponsors reap a financial "profit" from the labor of the individuals who serve. Members do receive compensation, but these living allowances represent a nominal fee that should enable individuals to participate. Finally, the Act unequivocally prohibits programs from employing "participants" in activities that would duplicate, displace or compete with any ordinary member of the labor force.

The Act's compensation scheme similarly suggests that Congress expected an FLSA exemption for AmeriCorps members. Congress drafted a precise formula by which programs are to calculate member living allowances. Grantees are to pay full time "participants" a living allowance of an amount between the average annual subsistence allowance provided to VISTA volunteers and 200 percent of this allowance for 1,700 hours served during a period of between nine months and one year. Compensation bears no direct relation to hourly labor. The fact that benefits are instead tied to the totality of the service experience undercuts any argument proposing FLSA applicability.

The child labor provisions of the FLSA are unlikely to pose many problems since most child labor restrictions apply only to children under the age of 16 years. AmeriCorps "participants" must be at least 16 years of age, and can therefore perform most types of labor without violating federal child labor provisions. Grantees should nevertheless be wary of assigning members under the age of eighteen to jobs of a hazardous nature. Programs should also familiarize themselves with the specific provisions of their state child labor laws that may or may not pose additional requirements or restrictions.

As a general rule, program administrators should take every opportunity to advocate the position that AmeriCorps members fall outside both FLSA and state labor employee law coverage. To date, this approach has proven successful. The U. S. Department of Labor has ostensibly provided a de facto exemption to AmeriCorps members, in that it has never issued an opinion requiring AmeriCorps grantees to compensate members with the federal minimum wage. All states but one have acted in a similar manner. California represents the only state thus far to subject AmeriCorps participants to state wage protections. The California Department of Industrial Relations, Division of Labor Standards Enforcement has determined that AmeriCorps members, serving federally funded nonprofit organizations, must receive minimum wage as determined by California law.

**C. Workers' Compensation**

AmeriCorps "participants" are not covered under the Federal Employment Compensation Act and are therefore not entitled to federal workers' compensation benefits. In many states, the statutory distinction between "participants" and "employees" has persuaded state officials to exempt "participants" from the scope of their state's workers' compensation laws. Texas, for example, through its Workers' Compensation Commission, issued an opinion exempting AmeriCorps members from the application of the Texas Workers' Compensation Act (TWCA). The Commission reasoned that the provisions of the TWCA apply only when an employee-employer relationship exists. No such relationship exists for AmeriCorps members since the drafters of the national service legislation specifically distinguished "participants" from employees.

Workers' compensation laws are designed to benefit both employees and employers. These provisions facilitate an injured employee's efforts to obtain compensation for injury. At the same time, these laws provide compensation in lieu of personal injury litigation and are designed to save employers from the sizable expenses of lawsuits for on-the-job accidents.

The wording of workers' compensation statutes vary from state to state. Some statutes clearly exempt volunteers, while others leave coverage to the discretion of the state department of labor. Idaho, for example, exempts from workers' compensation coverage "employment which is not carried on by the employer for the sake of pecuniary gain." Other states, like Arkansas, exempt employment in "institutions maintained and operated wholly as public charities."

In some states, the question of volunteer coverage has been left to the courts. Some court decisions extend coverage if the volunteer receives any form of compensation, such as a living allowance, stipend, room and board, benefits or even reimbursement for expenses. Other courts place little emphasis on the issue of compensation, but look instead to the degree of control the employer exercises over the volunteer's services.

For programs whose members are covered by their states' workers' compensation law, the Corporation for National Service will pay for 85% of the cost of coverage. Programs that do not pay workers' compensation benefits must obtain Occupational Accidental Death and Dismemberment (ADD) coverage for members. In addition, the Corporation advises that programs that must purchase ADD coverage may also need to supplement their liability coverage for incidents that occur while a member is performing his or her service.

**D. Unemployment Insurance**

The United States Department of Labor has ruled that the Federal Unemployment Tax Act (FUTA) does not apply to AmeriCorps participants. The Department's ruling offers guidance, but in no way binds states to exclude AmeriCorps personnel from their individual unemployment insurance provisions. Many states have, however, chosen to follow the federal government's lead.

Unemployment systems provide a safety net for employees who lose their livelihood due to an involuntary loss of employment. Unlike employees, "participants" do not work for general wages. Instead they receive a living allowance that simply enables them to participate in the AmeriCorps program. A member's separation from service, for whatever reason, does not result in a loss of livelihood. Providing unemployment payments to a former AmeriCorps member makes no more sense than providing unemployment benefits to a former student who had been receiving room and board as part of a scholarship.

AmeriCorps participation is governed by a contract that anticipates the member's voluntary departure at or before the end of their service term. Unless the member chooses to terminate the relationship early, he or she can only be separated for cause. The very notion of involuntary loss of a job makes no sense in the context of AmeriCorps service.

The laws in several states suggest an exemption for AmeriCorps participants. For example, New York law excludes "services rendered for a non-profit organization by ... a person whoparticipates in a youth service program designed to foster a commitment to community service and occupational and educational development and who, while participating in that program, performs services in the community or attends school and receives a stipend designed to cover expenses incurred in performing services or attending school, and is eligible for an award or scholarship upon leaving the program." Similarly, California excludes employment that is part of an unemployment work relief or work-training program assisted or financed in whole of in part by any federal agency or an agency of a state or political subdivision thereof. Other states, including Wisconsin and Washington, have adopted very specific exceptions for some types of service "participants" and programs.

The labor departments of some states have granted specific exemptions for AmeriCorps members. Both Pennsylvania and Texas have issued rulings exempting AmeriCorps members from their states' unemployment insurance coverage.

Each grantee's obligation to pay for unemployment compensation will depend on the law of the state and the labor department's interpretation of the law's application to AmeriCorps members. For grantees that operate programs in states requiring coverage, the Corporation will pay 85% of the program's share of unemployment taxes if the grantee includes such costs in their approved budget. Questions relating to your state's unemployment insurance program should be directed to the branch of state government in charge of unemployment compensation.

**E. Family and Medical Leave Act**

The Family and Medical Leave Act of 1993 (FMLA) requires that certain employers grant qualified employees up to 12 weeks of unpaid leave per year in the following situations:

1. the employee needs time to attend to the birth, adoption or placement in foster care of a child,
2. the employee must care for a spouse, child or parent with a serious health condition, or
3. the employee develops a serious health condition that makes the employee unable to perform his or her job.

For the limited purposes of the FMLA, The National and Community Service Act requires that members be treated as "eligible employees of the service sponsor." Consequently, "participants" in state, local or private nonprofit programs that receive Corporation support qualify as employees of the project sponsor for purposes of applying the FMLA

1. if they have served for at least 12 months and 1,250 hours during the year preceding the start of the requested leave, and
2. the program's project sponsor engages in commerce or any industry or activity affecting commerce, and employs at least 50 employees (not including "participants") for each working day during 20 or more calendar workweeks in the current or preceding calendar year.

"Participants" in federal programs operated by a federal agency are subject to the FML,A after having completed 12 months of service.

The Act provides programs with alternatives to meet the requirements of the FMLA. A grantee may either allow a member to take intermittent leave or to reduce his or her service hours. If the need for leave is foreseeable, based on planned medical treatment, the grantee may temporarily transfer the member to an alternative service position that would better accommodate the member's recurring periods of leave. Such a position would only be acceptable if the member is qualified for the new position and if he or she receives the same benefits as in the original position.

If the grantee provides for health insurance for a full-time member who requires FMLA leave, the grantee must continue to provide comparable health coverage at the same level and conditions under which coverage would have been provided for the duration of the participant's leave. If the participant fails to return to the program for any reason other than continuation, recurrence or onset of a serious health condition or other circumstances beyond the member's control, the grantee may recover the premium paid during the leave. The time accrued during an FMLA leave will not count towards the member's required term of service.

The FMLA is a federal law and does not supersede state family leave laws or collective bargaining agreements that may provide more extensive protections. Program administrators should familiarize themselves with the pertinent laws of the state in which their program operates.

**F. Health Benefits**

The National and Community Service Act specifically requires programs to "provide a basic health care policy for full-time participant... if the participant is not otherwise covered by a health care policy." The Corporation for National Service requires that grantees provide health care coverage to all full-time members who do not have adequate health care coverage at the time of enrollment or who lose coverage due to participation in the AmeriCorps program. In addition, programs must provide health care coverage to a full-time member who loses coverage during his or her term of service through no deliberate act of his or her own. Thus, the program must provide coverage for a member who becomes uninsured when his or her parent loses a job that provides a health cave plan.

Whether the program covers AmeriCorps members with its existing health care policy, or uses the alternative health care policy arranged for AmeriCorps members, the grantee must provide certain minimum health care benefits: The policy must cover:

* physician services for illness or injury
* hospital room and board
* emergency room care
* x-ray and laboratory costs
* prescription drugs
* mental or nervous conditions (may be limited)
* substance abuse (may be limited)

The health care policy must also include:

* an annual deductible of not more than $250 per individual;
* a co-pay requirement of not more than 20% or a comparable fixed fee;
* an out of pocket expenditure of not more than $1,000 per individual; and
* a lifetime maximum benefit of at least $50,000 for each occurrence.

Programs must provide health care coverage to all full-time members even if they are eligible for Medicaid. The U.S. Department of Health and Human Services has taken the position that members receiving Medicaid have coverage available to them through the AmeriCorps program. Because Medicaid coverage is supposed to "wrap around" other available health coverage, Medicaid will only pay for health care costs not covered by any other health care policy insuring AmeriCorps members.

**G. Benefits Eligibility**

**1. Public Assistance Benefits**

The AmeriCorps program aims to encourage the participation of people from all financial backgrounds. Not only does the Act prohibit discrimination against economically disadvantaged individuals, but the AmeriCorps program seeks to encourage the involvement of those from less than affluent backgrounds. Thus, a member's receipt of public financial assistance, either individually or through their family, should not negatively affect their eligibility to serve in your program. Similarly a member's receipt of public assistance benefits should not reduce the amount the member receives as AmeriCorps living allowances or other benefits.

Unfortunately, this protection of benefits does not flow in both directions. The National and Community Service Act does not prevent a member's receipt of AmeriCorps benefits from reducing or diminishing his or her eligibility for some other public assistance benefits. This rule may apply to benefits received by the member him or herself, or to assistance received by his or her family.

The effect of a participant's receipt of a living allowance and other program benefits on his or her eligibility for and receipt of other governmental benefits depends primarily on a special provision of the Act that requires National and Community Service benefits to be treated as if they were governed by Section 142(b) of the Job Training Partnership Act (JTPA). The JTPA divides federal public service benefits into two separate categories: 1) those distributed under Social Security Act programs and 2) those distributed under other federal programs. The U.S. Department of Health and Human Services has determined that receipt of an AmeriCorps living allowance may affect a participant's eligibility for Social Security Act public assistance benefits. The receipt of AmeriCorps benefits may not affect benefits administered under other federal programs. The following list identifies the most common public assistance benefits and identifies how they should be affected by receipt of AmeriCorps benefits.

**Public Assistance Eligibility and Benefits  
Affected by AmeriCorps Benefits**

|  |  |
| --- | --- |
| *Potentially Affected* (Distributed Under Social Security Act Programs)   * Temporary Assistance to Needy Families (TANF) (Formerly known as AFDC, and now referred to by different names in different states.) * Medicare * Medicaid * Federal Old Age, Survivors, and Disability Insurance Benefits (OASDI) * Supplemental Security Income for the Aged, Blind and Disabled (SSI) * Title XX Block Grant Programs (These programs vary by state.) | *Not Affected*   * Food Stamps * Federal job Training Programs * Pell Grants for Higher Education * Section 8 Housing Programs * Public and Indian Housing * Federal Student Financial kid (Based upon need) * Veterans Administration Benefits * Other Federal Need Based Programs |

As indicated on the previous page for benefits paid through Social Security Act programs, AmeriCorps benefits may affect the member's eligibility or receipt of public assistance. For example, Social Security Disability Insurance (OASDI) cash benefits are paid to disabled individuals who, during their employment history, have contributed sufficiently, through FICA payroll taxes, to the Social Security system, Participation in AmeriCorps may affect the member's eligibility for OASDI if the Social Security Administration deems the nature and amount of AmeriCorps service proof that the member lacks the requisite disability. In general, the receipt of more than $500 in monthly earnings serves as evidence that an individual is engaged in substantial gainful activity and is therefore not disabled. Thus, a member earning an average AmeriCorps living allowance would likely lose his or her OASDI assistance. Some exceptions do apply. For example, individuals with visual disabilities fall under an exception to the general rule. Grantees should advise program applicants who are also OASDI recipients to contact their Social Security Administration representative for individual specific guidance.

Similarly, a member's entitlement to Supplemental Security Income (SSI), another benefit provided under the Social Security Act, may be affected by receipt of AmeriCorps benefits. SSI provides cash benefits to disabled, low-income individuals. The Social Security Administration utilizes the same criteria, as discussed above, to determine whether SSI recipients are sufficiently disabled to qualify for financial assistance. Thus, a member's AmeriCorps participation may convince SSA that the individual lacks the requisite disability.

Even if AmeriCorps participation does not jeopardize a member's disability qualification, his or her receipt of AmeriCorps benefits may still affect his or her entitlement to SSI benefits. The Social Security Administration conditions SSI eligibility on the income and resources of the potential recipient. If AmeriCorps benefits cause the member to exceed SSI limits on income and resources, the member may face a loss or reduction of SSI assistance. The Administration makes a separate determination based upon the circumstances of each individual. The SSI program also includes work incentive programs, including the Plan for Achieving Self Support (PASS), which continues eligibility under circumstances specifically approved by SSA.

Although a participant's "earnings" can be taken into account in determining eligibility for Social Security Act programs, exceptions apply that enable state and federal authorities to ignore AmeriCorps compensation. The program providing aid and services to needy families with children provides an excellent example. Federal law requires that each state agency that administers its state plan for aid and services to needy families with children--

shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid.

Until recently, the U.S. Department of Health and Human Services (HHS) administered the Aid to Families with Dependent Children (AFDC) program. Changes in the welfare laws have transferred greater administrative authority to the individual states, Although many states now refer to this program as Temporary Assistance to Needy Families (TANF), other states have adopted a variety of different names.

Although each state may now individually determine the effect of AmeriCorps benefits on a member's eligibility for TANF, early HHS rulings still offer some guidance. For example, in a Policy Statement issued in 1994, the HHS Office of Family Assistance defined AmeriCorps living allowances as earned income for AFDC purposes. The Policy Statement granted states the option of disregarding the living allowance in certain cases of need, including those where the dependent child was a full-time student, or a part-time student not working full time. HHS policy instructed states to treat as in-kind benefits AmeriCorps child care services, health insurance coverage, auxiliary aid and services to individuals with disabilities, and education awards, giving states the discretion to count these in-kind benefits towards AFDC eligibility.

The discretion afforded by the HHS policy statement enabled states to vary considerably in their treatment of AmeriCorps benefits. Michigan, for example, chose to disregard all benefits except the living allowance. Michigan officials treated the living allowance as earned income unless the AmeriCorps member met the following criteria:

* lived with an adult who provided him physical care or supervision,
* was under the age of 18; or
* was 18, a full-time student in high school or equivalent vocational or technical training, and expected to complete school training before reaching the age of 19.

Public assistance benefits not administered under the Social Security Act should not be affected by the receipt of AmeriCorps benefits. Although food stamps fall within this category, the state and federal officials who administer the food stamp program have often erroneously misconstrued the law to penalize food stamp recipients who participate in AmeriCorps programs. In an attempt to end the confusion, the U.S. Department of Agriculture (USDA) issued the following explanation of the impact of AmeriCorps benefits:

[P]ayments received under the AmeriCorps Program are excluded from income for food stamp purposes.... The exclusion applies to all payments made under the AmeriCorps Program except for some earnings to individuals who are participating in an on-the-job training program that is equivalent to those under Section 204(5), Title 11, of the job Training Partnership Act. Those payments are counted if the person is 19 years old or older or under 19 but not under parental control.

In accordance with this statement, all AmeriCorps benefits should be excluded from income for food stamp purposes. The purported exception to this rule, pertaining to earnings from on-the-job-training programs, has no meaning. The AmeriCorps program incorporates no "on-the-job training programs." In addition, no AmeriCorps program represents the equivalent of a Job Training Partnership Act on-the-job training program. According to the office of the General Counsel of the Corporation for National Service--

The JTPA on-the-job training program is required by law to include a "formal program of structured job training that will provide participants with an orderly sequence of instruction in work maturity skills, general employment competencies, and occupationally specific skills." AmeriCorps national service programs do not include such a formal program of structured job training, or its "equivalent."

Although the USDA has conceded that AmeriCorps operates no on-the-job, training programs, nonetheless USDA regional directors and state affiliates continue to erroneously count AmeriCorps benefits as earned income in their food stamp eligibility determinations. The USDA places the onus on programs and members to help USDA regional offices prevent this error. The Department of Agriculture reports that regional offices cannot exclude a member's AmeriCorps benefits unless the member (and/or his household) submits verification that his or her income comes from the AmeriCorps program. *The USDA* advises AmeriCorps programs to inform members that if and when they apply for food stamps, they must submit documentation showing that the payments they receive from an employer are AmeriCorps living allowances andnot regular employment wages.

For members who receive benefits administered under the Social Security Act, some reduction or loss of public assistance may be inevitable. The Corporation for National Service permits members to waive all, or part, of their living allowance. The Corporation cannot generally predict whether this waiver will maintain the member's eligibility for public assistance since the Social Security Administration must tender this decision for each member on a case-by-case basis.

**2. Health Care**

Members covered by Medicaid will not experience a reduction in their individual health care insurance upon receiving health care coverage procured by their AmeriCorps program. Members eligible for Medicaid must receive the same health insurance as other AmeriCorps members. Despite the AmeriCorps health care coverage, these members and their children may continue to be eligible for Medicaid benefits. If the member continues to meet Medicaid eligibility criteria, Medicaid coverage will "wrap around"whatever health insurance hisor her AmeriCorps grantee provides. In some situations, Medicaid might pay a deductible, or a Co-Payment that the grantee's health insurance plan does not cover. Medicaid would also pay expenses above the maximum limit of the grantee's health plan in the event that the member suffers a serious injury or illness.

The AmeriCorps member's participation could potentially affect his or her family's health care coverage. The health care package provided through AmeriCorps covers only the member. It does not extend to others in the member's family. The member's receipt of AmeriCorps benefits, including the health care package, could be considered income affecting the member's family's eligibility for Medicare and Medicaid, both of which are administered under the Social Security Act. Fortunately, a number of statutory and regulatory provisions work to protect Medicaid coverage for the children of AmeriCorps members. Members and/or applicants should be advised to consult with their local Social Security Administration Office to ascertain whether their AmeriCorps benefits will affect their children's eligibility for Medicaid coverage.

**3. Child Care**

AmeriCorps members are to be treated like JTPA participants when it comes to determining the effect that their benefits will have on their receipt of and eligibility for public assistance. When considering the impact of the receipt of child care benefits no simple comparison can be made. JTPA participants receive no child care assistance and thus minimal information is available on this matter.

At least one federal agency, the U.S. Department of Health and Human Services (HHS), has issued an opinion that offers a clue to this dilemma. In determining the impact of AmeriCorps benefits on AFDC eligibility, HHS instructed state administrators and others to exclude "child care *allowances"* from consideration as income. These allowances fell under the classification of excludable grants." In contrast, HHS afforded state administrators the right to treat "child care *services*"as in-kind benefits. State officials were thus free to use their own discretion to include or exclude these in-kind benefits from consideration for the receipt of AFDC benefits. The HHS directive reveals that the form (cash or in-kind) of child care assistance that members receive may alter the effect the benefit has on the member's eligibility for public aid.

**4. Student Aid**

The AmeriCorps program, and those who strive to make it successful, take great pride in the program's goal of providing "participants" with the means to pay for higher education. Towards this goal, The National and Community Service Act and the Higher Education Act work in concert to allow "participants" to:

* pay off pre-existing student loans,
* obtain forbearance and interest payments on these loans, and
* pay the cost of attending qualified institutions of higher education or approved school-to-work programs.

a. *Payment of Educational Expenses*

"Participants" may use AmeriCorps Education Awards to pay the costs of attendance at qualified institutions of higher education." Qualified institutions of higher education are those that have in effect a Title IV Program Participation Agreement with the U.S. Department of Education and include graduate and professional schools, colleges, trade schools and some vocational programs.

"Participants" may also use their Education Awards to pay for approved school-to-work programs. If a member wishes to attend a "school-to-work" program, he or she needs to obtain a certification from the applicable state School-to-Work agency. The certification must state that the educational institution selected by the member qualifies as part of the state's School-To-Work Network.

b. *Loan Repayment*

The Act provides that "participants" who successfully complete their terms of service may apply to have the Corporation release their AmeriCorps Education Awards towards repayment of their qualified student loans." Qualified student loans include any loan made, insured or guaranteed under Title IV of the Higher Education Act of 1965, or under Titles VII or VIII of the Public Service Act, and include Federal Stafford Loans, Federal Perkins Loans, Federal Direct Student Loans, Federal Consolidated Loans, Supplemental Loans for Students, Public Health Service Loans, and Plus Loans (except for Plus Loans made to the parents of students).

"Participants" who do not complete their terms of service, but must leave for "compelling personal circumstances" (as determined by the program) may receive a pro-rated Education Award so long as:

1. they have completed at least 15 percent of their required term of service prior to their release, and
2. the program agrees to grant a prorated award rather than require the participant to complete service after a suspension period."

Individuals released from service for cause may not receive AmeriCorps Education Awards.

Members may receive one AmeriCorps Education Award for each of their first and second terms of service. Both terms may be full-time, part-time, or reduced part-time terms, or the member may serve for two different types of terms. A participant may not receive an Education Award for a term of service and have that same service credited toward repayment of other student loans.

Neither the National and Community Service Act nor the Higher Education Act authorize the *cancellation* of AmeriCorps members' student loans. In fact, the 1993 Amendments to the Higher Education Act prohibit AmeriCorps Education Award recipients from using the term of service for which they earned an Education Award to obtain cancellation of their Federal Stafford or Federal Perkins Loans.

c. *Forbearance and Interest Payments*

While they perform their service, AmeriCorps recipients of Education Awards may also obtain forbearance from most qualified student loans. Members who follow their lender's application procedures may avoid making loan payments on most qualified student loans. Interest payments will continue to accrue for loans in forbearance, but the Corporation for National Service will pay all interest for full-time members and a portion of the interest for part-time members who successfully complete their terms of service. The regulations contain a means for calculating interest payments for those who cannot complete their service for "compelling personal circumstances." No interest assistance will be provided during any period that a participant's service is suspended. Forbearance is mandatory for most student loans, but a member may not secure forbearance for any loans for which he or she is in default.

Currently, Congress has not given the Department of Education the authority to issue formal regulations requiring forbearance for Federal Perkins Loans. Nonetheless, the Secretary of Education has issued a statement strongly encouraging schools to grant AmeriCorps participants forbearance on these federal loans. Borrowers of Perkins Loans must consult with their lending institutions to determine whether their individual loan agreements provide for some type of forbearance arrangement during service.

d. *Financial Aid Eligibility*

A member's receipt of a living allowance or other financial assistance from AmeriCorps should not affect the member's eligibility for federal student aid. This result comports with the general rule applicable to the impact of AmeriCorps benefits on a members' receipt or eligibility for public assistance. Nonetheless, members must disclose their receipt of all AmeriCorps benefits to the educational institution.

The Corporation for National Service has issued formal regulations instructing institutions of higher education to disregard AmeriCorps Education Awards when calculating the AmeriCorps member's expected family contributions. Similarly, institutions are not to treat Education Awards as estimated financial assistance in packaging assistance under the Higher Education Act.

The Corporation formational Service has no jurisdiction over State or private universities and therefore cannot control whether these institutions will take AmeriCorps benefits into account in determining a member's eligibility for the institution's own financial aid. The Corporation has requested that these institutions disregard AmeriCorps benefits when making financial aid determinations. Ultimately, how Education Awards will be treated for an institution's financial aid package will depend upon the institution's financial aid office policies.

**H. Garnishment**

AmeriCorps members receive a living allowance paid from both federal and private sources. The Office of the General Counsel for the Corporation for National Service has determined that the federal portion of the living allowance (the amount paid from the National Service Trust) is protected from garnishment by sovereignimmunity

Sovereign immunity protects the property interests of the United States from lawsuits to which the federal government has not consented. The United States maintains a continuing property interest in AmeriCorps grant funds until they are paid in accordance with the grant's terms. Since the Corporation possesses a property interest in the federal share of each member's living allowance, this property is consequently protected by sovereign immunity.

Although the Corporation for National Service lacks the power to waive sovereign immunity, Congress itself may renounce this protection. Congress has issued a limited statutory waiver with respect to an individual's legal obligation to provide child support or to make alimony payments. This waiver applies only to moneys "the entitlement of which is based upon remuneration for employment."

Congress drafted the National and Community Service Act to distinguish AmeriCorps "participants" from "employees." The law prohibits members from performing or duplicating the duties of an ordinary employee, from acting in any way that would replace, displace, or substitute for an ordinary employee, and from performing any activity that would jeopardize an employee's promotional opportunities. Consequently, AmeriCorps participation does not qualify as employment.

Moreover the living allowances received by AmeriCorps members are neither wages nor earnings. These benefits are not geared to the number of hours worked or to member productivity. Instead, members receive living allowances simply to cover "the necessary costs of living (including food, housing and transportation) in the area in which the program is located." The AmeriCorps living allowance is not determined according to federal minimum wage standards, but is instead keyed to the average annual subsistence allowance provided to VISTA volunteers.

Since AmeriCorps participation does not qualify as "employment," and because AmeriCorps benefits do not constitute the type of wages generally paid to an employee, the compensation members receive cannot be considered "remuneration for employment." Consequently, the federal portion of the living allowance awarded members does not fall within the parameters of the Congressional waiver. Sovereign immunity thus protects these funds from garnishment.

Private sources provide a portion of the funds used to pay AmeriCorps members' living allowances. Funds from these sources receive no special federal protection from garnishment. In the absence of this protection, states are free to garnish these funds as they choose. Most states have enacted very broad and fairly uniform garnishment provisions in order to enforce child support orders. States are required to adopt mandatory withholding of child support from the income of a delinquent parent. Regulations promulgated by the Department of Health and Human Services encourage states to extend their systems to include withholding from forms of income other than wages.

The following excerpt from Arkansas law offers a typical state approach to wage assignment and deduction:

When a person is ordered by a court of record to pay for the support of his children under the age of eighteen (18) years, the court, at the time an order of support is made or any time thereafter, upon showing of good cause, shall order his employer, former employer, the auditor, comptroller, or disbursing officer of any pension fund, theState of Arkansas or any political subdivision thereof, or the United States to deduct from all moneys due or payable to the person, the entitlement to which is based upon remuneration for employment, past or present, such amounts as the court may find to be necessary to comply with its order for the support of the children under the age of eighteen (18) years.

A member may attempt to escape garnishment of the privately funded portion of his or her living allowance by contending that his or her service participation does not constitute employment, and that his or her living allowance does not qualify as a wage. Courts are unlikely to deem national service legislative provisions sufficient to block enforcement of child support order in light of the important social purposes served by child support enforcement. These arguments may, however, assist a member in escaping garnishment for obligations other than child support.

**I. Fundraising**

Minimal statutory guidance governs questions relating to fundraising activities for AmeriCorps members. A brief reference in the Corporation for National Service regulations refers programs to a series ofOffice of Management and Budget (OMB) Circulars, each of which identify federal principles for determining the allowable costs for state, local or Indian tribal governments, private nonprofit organizations other than institutions of higher education, hospitals and other specified entities,133 and educational institutions.

Even these OMB Circulars offer severely limited descriptions of restricted fundraising activities. For example, the Circular pertaining to nonprofit organizations states simply:

Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable.

The language of the Circular pertaining to state, local, or Indian tribal governments repeats these same restrictions, and extends them to prohibit such expenditures "regardless of the purpose for which the funds will be used."

Congress' minimal guidance has prompted the Corporation for National Service to create its own list of prohibited fundraising activities, applicable to AmeriCorps programs and members. The following identifies fundraising activities deemed by the Corporation to be permitted and prohibited to grantees and "participants":

**Permissible activities for programs:**

* Developing and printing materials such as brochures and annual reports to be used for outreach to the general public (including potential board members, funders and community partners);
* Contacting individuals and organizations that are potential partners who may assist programs in delivering service;
* Asking their board of directors and other volunteers to raise funds on their own time;
* Paying for a program evaluation to demonstrate the impact and effectiveness of the program;
* Soliciting community involvement with or in-kind support for the program, e.g. seeking volunteers to help with the project and donations of building supplies for a construction project;
* Coordinating community involvement in a day of service, serve-a-thon and other direct service activities that may have a fundraising element;
* Including members of the public (including funders and other community partners) on the program's general mailing list for newsletters or brochures and other general interest publications (but publications paid for from AmeriCorps grant funds, including matching or other Federal funds, should not contain solicitations for donations);
* Including in the program's general purpose newsletter a "wish list of needed in-kind items;"
* Inviting members of the public (including funders and other community partners) to make site visits to the program;
* Asking for advice from individuals with expertise, who may be business or foundation staff, regarding matters such as program development, training and evaluation;
* Inviting members of the public (including funders and other community partners) to attend graduation ceremonies and other special events;
* Asking local businesses to sponsor recognition events for members or volunteers.

**Permissible activities for members:**

* Soliciting supplies from local businesses for a direct service project, e.g. soliciting several cans of paint from a store near a work site to meet a project need;
* Organizing an *occasional* "serve-a-thon" in which members recruit individuals to obtain sponsors in advance of an approved direct service event.

**Prohibited activities for programs:**

* Charging time to the program's AmeriCorps grant for staff preparing funding proposals;
* Using AmeriCorps grant funds, including matching or other Federal funds, to develop promotional materials solely targeted at prospective funders;
* Using AmeriCorps grant funds, including matching or other Federal funds, to engage in a direct mail campaign to raise funds;
* Using AmeriCorps grant funds, including matching or other Federal funds, to conduct capital campaigns or endowment drives;
* Hiring a development consultant and charging fees to the program's AmeriCorps grant;
* Charging fundraising time spent by staff to AmeriCorps sources or other Federal grant funds.

**Prohibited activities for members:**

* Preparing any part of a grant proposal or perform other fundraising functions to help the program achieve its match requirement, or to pay the organization's general operating expenses.

**J. Political Activities**

Both programs and participants are strictly forbidden from using AmeriCorps grant funds to engage in any form of political activity. The National and Community Service Act requires that all grant applicants include in their application an assurance that the funds they receive will not be used to perform service that provides a direct benefit to any labor union or partisan political organization." In addition, the Act prohibits program staff and "participants" from using any grant funds to

1. assist, promote or deter union organizing; or
2. finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office."

The Corporation for National Service has issued regulations that further identify prohibited forms of politically related conduct. These regulations forbid participants from performing political activities in the course of their service duties, at the request of program staff, or in a manner that would associate the political activity with the AmeriCorps program ofwith the Corporation forNational Service. The following activities are among those prohibited by the regulations:

1. Any effort to influence legislation, as prohibited under section 501(c) of the Internal Revenue Code of 1986;
2. Organizing 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.

The regulations point out that while "participants" must avoid all political activity during service time, members may nonetheless legally engage in these same activities during their own personal time. In other words, the Act and its accompanying regulations do not force an AmeriCorps member to surrender his or her First Amendment rights to free speech. If an AmeriCorps member wishes to take part in some form of political activity, he or she must do so on their own time, at their own expense, through their own initiative, and not while wearing any service gear or uniform that would identify the individual as an AmeriCorps member.

The General Counsel of the Corporation for National Service has instructed programs and members that, although an AmeriCorps member has the right to lobby his or her Congressional representative, he or she may not 1) use AmeriCorps funds for travel expenses, 2) receive credit for the time spent towards service hours, 3) receive living allowance payments for the time spent in the lobbying activities and 4) wear any AmeriCorps clothing or accessories during the visit. In addition, to legally distinguish him or herself from the AmeriCorps program, the member must explicitly state to the Member of Congress and to the Congressional staff that he or she is visiting at his or her own time, initiative and expense.

Although programs and members should avoid activities that could be interpreted as an attempt to influence legislation, they are, nonetheless, permitted to meet with members of Congress, if and when a Congressperson or Senator initiates the contact. Upon receiving such contact, the AmeriCorps program should request an invitation in writing. No AmeriCorps uniforms or clothing bearing the AmeriCorps logo should be worn to such meetings.

The Corporation has provided the following list that includes some, but not all of the types of political activity situations that programs and members should avoid:

* Organizing a letter-writing campaign to Congress;
* Printing politically charged articles in a Corporation funded newsletter;
* Advocating for changes in state or local laws, including state or local ballot initiatives;
* Organizing or participating in voter registration drives;
* Taking part in political demonstrations or rallies;
* Engaging in other advocacy activities related to protests, petitions, boycotts, or strikes.

Programs should never bar a member from exercising his or her freedom of speech. Nonetheless, AmeriCorps grantees should make every effort to ensure that members conduct any and all political activity outside of AmeriCorps service time and in a manner that cannot be associated with the AmeriCorps initiative.

**Conclusion**

No single rule governs the manner in which AmeriCorps members must be treated for the purposes of federal and state tax, employment, benefit and other laws. In some instances, Congress' plan for AmeriCorps members can best be accomplished by affording these individuals "employee" status. For most laws, however, a clear distinction between "participants" and "employees" must be made in order to preserve the AmeriCorps experience that Congress envisioned.

Federal and state laws that affect AmeriCorps rights and obligations are administered by individuals who have little experience with the AmeriCorps program and minimal knowledge of national service legislation. Often these administrators will erroneously categorize AmeriCorps members in ways that may make AmeriCorps service an experience most individuals cannot afford to achieve. To avoid this situation, program administrators must familiarize themselves with the pertinent national service provisions and regulations as well as with the arguments that support beneficial application of federal and state tax, labor and benefit laws.

The materials presented here offer much of what programs will need to know in order to educate federal and state officials about the special features of AmeriCorps. This booklet has been designed to help administrators to operate within the law and to advocate for rulings favorable to their programs and "participants."

Administration of an AmeriCorps program has never been easy. The unique provisions of AmeriCorps law make this task all the more difficult. It is the hope of the authors of these materials that this text will lighten the burden somewhat for all those who together strive to "Get the job done."

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APPENDIX B

**COLLEGE COST REDUCTION**

**AND ACCESS ACT**

**FAQ’S**

**The College Cost Reduction & Access Act and AmeriCorps**

FAQs for AmeriCorps Members and Alums on the Public Service Loan Forgiveness Program and the Income-Based Repayment Plan

The College Cost Reduction and Access Act of 2007, (“CCRAA”) includes two new programs that may provide significant benefits to AmeriCorps members and AmeriCorps alumni. It includes a new Public Service Loan Forgiveness Program (“PSLF”) for recipients of William D. Ford Direct and Direct Consolidation Loans and a new Income-Based Repayment Plan (“IBR”). The following FAQs describe how these two new programs operate in relation to AmeriCorps programs. For more detailed information on these programs, including eligibility requirements and Department of Education processes, please visit the Department of Education’s website. If you have a question about Public Service Loan Forgiveness or IBR that isn’t answered here, please send it to AmeriCorpsloanforgiveness@cns.gov.

NOTE: The FAQs below were developed by the Corporation for National and Community Service, and are intended for informational purposes only; the information below is not legal or financial advice and does not substitute for legal or financial advice.

Questions about Public Service Loan Forgiveness and AmeriCorps

1. What is the Public Service Loan Forgiveness Program (“PSLF”)?

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7. Before I joined AmeriCorps, I consolidated my student loans with a private lender. Will my repayments still be eligible under PSLF?

8. I’m an AmeriCorps alum and have been paying down my student loan for several years. Will my previous payments count for PSLF?

9. I’m serving in a full-time AmeriCorps position and making qualifying payments for PSLF. When I’m done with my AmeriCorps service, will I be able to take a break between ending my AmeriCorps service and starting a public service job, or do I need to stay in public service for ten years straight? In other words, must my 120 payments be consecutive?

10. I am currently serving in an AmeriCorps program and have requested that my student loans be put into forbearance for financial reasons. Will my service count towards my eligibility for PSLF?

11. I am currently serving in an AmeriCorps program and am not paying on my loans because I qualified for an economic hardship deferment. Will my service count towards my eligibility for PSLF?

12. I am currently serving in an AmeriCorps program and only take home $11,000 a year. How can I afford to make payments on my student loans so that I can take advantage of PSLF?

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**Questions about Income-Based Repayment and AmeriCorps**

16. What is an IBR and how can I sign up for it?

17. I will begin repaying my loans this year. If I select income-contingent or a 10-year standard repayment plan now, will I be able to switch to IBR when it becomes available next July?

18. I am currently serving in an AmeriCorps program and have requested that my student loans be put into forbearance for financial reasons. Can I take my loans out of forbearance and enter into an income-based repayment plan when it becomes available?

19. Should I take my loans out of forbearance and enter into IBR?

20. If I start making payments on my Direct Loan under IBR while serving in AmeriCorps, will my payments under IBR change when I leave AmeriCorps if I make more money?

21. If I pay on my Direct Loan under IBR while serving in AmeriCorps, must I continue to work in a public service job for my Direct Loan to be forgiven?

**Questions about Public Service Loan Forgiveness and AmeriCorps**

1. What is the Public Service Loan Forgiveness Program (“PSLF”)? The CCRAA added the Public Service Loan Forgiveness Program to the Direct Loan Program. Under PSLF, the Department of Education will forgive any outstanding balance and accrued interest on a borrower’s Direct Loan or Direct Consolidation Loan after the borrower makes 120 qualifying payments on the loan on or after October 1, 2007. For a payment to be qualifying, it must be:

a. A payment on a Direct Loan or Direct Consolidation Loan;

b. Paid under an income-based repayment plan, income-contingent repayment plan, or 10-year standard repayment plan;

c. A regular payment made within 15 days of the payment’s monthly due date;

d. While working in a public service job.

In addition, the individual must be working in a public service job at the time the individual applies for loan forgiveness and at the time the balance on the loan is forgiven.

2. Do payments made while serving in a full-time AmeriCorps position count towards PSLF? According to the Department of Education’s proposed regulations, full-time service in an approved AmeriCorps position will be considered equivalent to employment in a public service job for purposes of PSLF. If the proposed rule is adopted as a final rule, your payments will count if:

a. You are serving in a *full-time* position in AmeriCorps State and National, AmeriCorps VISTA, or AmeriCorps NCCC;

b. The payments are on a Direct Loan or Direct Consolidation Loan;

c. You are making payments under an income-based, income-contingent, or 10-year standard repayment plan;

d. You are making regular monthly payments within 15 days of the payment’s due date; and

e. The payments are made on or after Oct. 1, 2007.

3. What kind of AmeriCorps service counts as a public service job for the purposes of PSLF?

The Department of Education’s proposed regulations state that service in “a full-time AmeriCorps position” will be considered equivalent to employment in a public service job. An “AmeriCorps position” is defined in Education’s proposed regulations as “a position approved by the Corporation for National and Community Service under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573).” (See proposed 34 CFR § 685.219(a)).

Based on this definition, full-time service in the following programs is considered a public service job for the purposes of PSLF:

a. AmeriCorps State and National;

b. AmeriCorps VISTA; and

c. AmeriCorps NCCC.

4. What does “full-time” mean when referring to AmeriCorps positions?

The Department of Education’s proposed regulations provide a definition for “full-time” employment. However, to be serving in a “full-time AmeriCorps position,” one’s service must satisfy AmeriCorps’s definition of “full-time.” The Corporation defines a “full-time” approved AmeriCorps position as service for “not less than 1,700 hours during a period of not less than 9 months and not more than 1 year.” 42 U.S.C. 12593(b). Thus, service in a part-time program, such as the Summer of Service or VISTA Summer Associates, would not be considered full-time service in an AmeriCorps position.

5. I am serving in a part-time AmeriCorps position, but am serving more than 30 hours a week. Will payments I make while serving in this position count towards PSLF?

No. Under the Department of Education’s proposed regulations, only full-time service in an approved AmeriCorps position will be considered equivalent to employment in a public service job for the purposes of PSLF. The Department of Education provides a definition for “full-time” employment, including working “an annual average of at least 30 hours per week.” (See proposed 34 CFR § 685.219(b)). However, to be serving in a “full-time AmeriCorps position,” one’s service must satisfy AmeriCorps’s definition of “full-time.” The Corporation defines a “full-time” approved AmeriCorps position as service for “not less than 1,700 hours during a period of not less than 9 months and not more than 1 year.” 42 U.S.C. 12593(b). In other words, our interpretation of “full-time” does not take into consideration the average number of hours worked per week, but rather focuses on the agreed-upon term of service.

6. Will qualifying payments I make while serving in an AmeriCorps program still count towards PSLF if I leave AmeriCorps service early?

Yes, if you were serving in an approved full-time position and your payments were qualifying, the payments you made while serving will count towards PSLF. Make sure to keep documentation of your service so that you can prove you were serving in a full-time AmeriCorps position when you made your payments. Please note, however, that payments you make after leaving AmeriCorps that are made while not in a qualifying public service job will not count towards PSLF.

7. Before I joined AmeriCorps, I consolidated my student loans with a private lender. Will my repayments still be eligible under PSLF?

No. Only Direct Loans and Direct Consolidation Loans are eligible for PSLF. Effective July 1, 2008, if you have a federally-guaranteed (FFEL) loan or FFEL Consolidation Loan, and you intend on taking advantage of PSLF, you may consolidate or re-consolidate your loans into a Direct Consolidation Loan. If your loan or consolidation loan is not federally-guaranteed, it will not qualify. For information on how to do this, and whether your loans and consolidation loans qualify, visit loanconsolidation.ed.gov/.

8. I’m an AmeriCorps alum and have been paying down my student loan for several years. Will my previous payments count towards PSLF?

It depends. For your payment to qualify for PSLF it must be a payment on a Direct Loan or Direct Consolidation Loan in a 10-year standard, income-based, or income-contingent repayment plan made *on or after October 1, 2007*.1 Any payment made prior to October 1, 2007 does not count towards public service loan forgiveness.

9. I’m serving in a full-time AmeriCorps position and making qualifying payments for PSLF. When I’m done with my AmeriCorps service, will I be able to take a break between ending my AmeriCorps service and starting a public service job, or do I need to stay in public service for ten years straight? In other words, must my 120 payments be consecutive?

No, the 120 qualifying payments do not need to be consecutive. So long as you have documentation that you were in an eligible public service job when you paid each of the 120 qualifying payments, and you are in an eligible public service job at the time you apply for PSLF and at the time your loan balance and accrued interest are forgiven, you will be eligible for PSLF.

1 The Department of Education’s proposed rule would also include other repayment plans if the monthly repayment amount is not less than the amount the borrower would have paid under the Direct Loan standard repayment plan.

10. I am currently serving in an AmeriCorps program and have put my qualified student loans into forbearance for financial reasons. Will my service count towards my eligibility for PSLF?

No. PSLF is available after you have made 120 qualifying payments on your Direct or Direct Consolidation Loan. The fact that you are serving in a full-time AmeriCorps position or working in a full-time public service job does not help you qualify for PSLF if you are not simultaneously making qualifying payments on your qualifying loan.

11. I am currently serving in an AmeriCorps program and am not paying on my loans because I qualified for an economic hardship deferment. Will my service count towards my eligibility for PSLF?

No. PSLF is available after you have made 120 qualifying payments on your Direct or Direct Consolidation Loan. The fact that you are serving in a full-time AmeriCorps position or working in a full-time public service job does not help you qualify for PSLF if you are not simultaneously making qualifying payments on your qualifying loan. NOTE: It is possible that the period during which you are in an economic hardship deferment may count towards the 25 year period after which a Direct (or Direct Consolidation) Loan being paid in an income-based repayment plan will be forgiven. For more information on IBR forgiveness, see §§ 682.215(f) and 685.221(f) of the Department of Education’s proposed regulations.

12. I am currently serving in an AmeriCorps program and only take home $11,000 a year. How can I afford to make payments on my student loans so that I can take advantage of PSLF?

The CCRAA created a new loan repayment plan, Income-Based Repayment (IBR), which may make paying on your loans during service more manageable. For more on IBR, see our FAQs on IBR and AmeriCorps, below.

13. Will payments made using my Segal AmeriCorps Education Award count as qualifying payments for PSLF?

Yes. So long as you are paying on a qualifying loan, and your loan is in an eligible repayment plan (IBR, ICR, or a 10-year standard repayment plan), payments made with your AmeriCorps Education Award will count towards the 120 required payments for PSLF.

14. How will payments made on loans eligible for public service loan forgiveness using my Segal AmeriCorps Education Award be treated?

According to the Department of Education’s proposed regulations, if you elect to use your Education Award to make a lump sum payment on an eligible loan for which you are seeking public service loan forgiveness, the Department of Education will consider you to have made either (1) the number of payments that would result from dividing the amount paid by the monthly payment amount you would have made under your selected repayment plan; or (2) twelve payments – whichever is less. (See proposed 34 CFR § 685.219(c)(2)).

For example, if you instruct the National Service Trust to send $1,000 of your education award towards payment on a Direct Loan, and under your repayment plan you are expected to pay $100 each month, your education award payment would count as 10 payments towards PSLF, and you would not owe another payment for 10 months. ($1000 ÷ $100/month = 10 payments, which is less than 12 payments).

You should consider how much your monthly payments will be before requesting that all or part of your education award be paid on an eligible loan to qualify for PSLF. If, for example, you instruct the Trust to send your entire $4,725 towards your eligible loan, but you are only expected to pay $100/month on that loan, your lump sum payment will only count as 12 payments. ($4,725 ÷ $100/month = 47.25 payments, which is greater than 12 payments). However, if each year for three years you instruct that $1,200 be paid towards your loan, and $1,125 the fourth year, your education award will eventually count towards 47.25 payments, instead of just 12.

NOTE: You should check the terms of your repayment plan to determine how amounts paid in excess of the required monthly payment are credited toward your loan. For example, someone who used the entire AmeriCorps education award of $4,725 at once to pay on a loan using IBR with an expected monthly payment of $100 who intends to qualify for PSLF will have $1,200 of the $4,725 count as 12 payments, and the remaining $3,525 would be credited first to accrued interest, second to collection costs, third to late charges, and last to the loan principal. (See proposed 34 CFR § 685.221(c)).

15. Should I use my Segal AmeriCorps Education Award to make payments towards PSLF?

This depends upon the size of your loan, your expected income, and your future employment plans. To make the most of the AmeriCorps education award, some may benefit most by using the award to pay down the principal of a loan, while others will not benefit from paying down the principal (and may, in fact, end up spending more money). Preliminary examination suggests that if you intend on taking advantage of PSLF, the greater your debt-to-income ratio, the less likely that paying down your principal will be beneficial.

**Questions about Income-Based Repayment Plans and AmeriCorps**

16. What is an IBR and how can I sign up for it?

The CCRAA added a new Income-Based Repayment Plan (“IBR”) to the federal family education loans (“FFEL”) and Direct Loan programs for individuals with a partial financial hardship.2  Under IBR, your monthly payments will be limited to no more than 15% of the amount by which your adjusted gross income exceeds 150% of the poverty guideline applicable to your family size, divided by 12. Based on this calculation, if you are single and make $11,000 each year in AmeriCorps, your monthly payments could be as low as $0 each month. Even a payment of $0 a month on a qualifying loan counts towards the required 120 payments for PSLF. IBR will become available in July, 2009. You may find the IBR calculator available at finaid.org helpful in estimating what your monthly payments would be under IBR, and whether you would qualify. We will post information on how to request IBR from the Department of Education as it becomes available.

17. I will begin repaying my loans this year. If I select income-contingent or a 10-year standard repayment plan now, will I be able to switch to IBR when it becomes available next July?

Yes, if you have a partial financial hardship at the time you apply for IBR.

2 A “partial financial hardship” is defined in the Department of Education’s proposed rules as “a circumstance in which the annual amount due on all of a borrower’s eligible loans, as calculated under a standard repayment plan based on a 10-year repayment period, exceeds 15% of the difference between the borrower’s [adjusted gross income] and 150 percent of the poverty guideline for the borrower’s family size.”

18. I am currently serving in an AmeriCorps program and have requested that my student loans be put into forbearance for financial reasons. Can I take my loans out of forbearance and enter into an income-based repayment plan when it becomes available?

Yes. You may take your loans out of forbearance at any time. For more information on forbearance during AmeriCorps service, visit our website. For information on how to request that your loans be taken out of forbearance, contact your loan holder. We will post information on how to request IBR from the Department of Education as it becomes available.

19. Should I take my loans out of forbearance and enter into IBR?

This depends upon your individual circumstances, including the length of time you have been in repayment status, the size of your loan, the amount you would pay under IBR, and your future employment plans.

Interest accrues on your student loans while they are in forbearance. Interest will also accrue on your loans while being paid under IBR if your monthly payments are too small to cover the accruing interest. The Corporation will pay for any interest accrued on qualified student loans in forbearance during your AmeriCorps service out of the National Service Trust if you successfully complete your term - regardless of whether the loan is subsidized or unsubsidized and regardless of the length of the time the loan has been in repayment status. Similarly, the Secretary of Education will not charge you for interest that accrues on loans due to small payments under IBR. However, Education’s payments on accrued interest only apply to Direct Subsidized Loans and the subsidized portion of Direct Consolidation Loans, and are only available for the first three years your loans are in repayment under IBR.

If you take your loans out of forbearance, and your Direct Loans are unsubsidized and your IBR payments are not large enough to cover accruing interest, you may finish your AmeriCorps service owing more money than when you started. On the other hand, if you intend on working in public service for ten years, you have a large loan, and you expect that you will have a small income, the amount that would be forgiven after 120 payments may be significant. In such case, it may be worth it to you to put your loans into IBR while serving in AmeriCorps so that you can start working towards the required 120 payments as soon as possible.

To determine whether you should put your loans into forbearance or use IBR while in AmeriCorps, you should contact your loan holder for guidance. You may also wish to consult with a financial aid advisor and use the many resources available on the Department of Education’s Direct Loan website.

The regulations regarding payments from the National Service Trust on interest accrued on loans in forbearance during AmeriCorps service can be found at 45 CFR Part 2529. Information on forbearance during AmeriCorps service can be found on our website. If you cannot find an answer about payments on accrued interest from the National Service Trust, you can contact the Trust at 1-800-942-2677.

20. If I start making payments on my Direct Loan under IBR while serving in AmeriCorps, will my payments under IBR change when I leave AmeriCorps if I make more money?

Yes. Your payments under IBR will be re-calculated annually, and are based on your adjusted gross income. Once you qualify for IBR, you can remain in IBR as long as you choose. Depending upon your adjusted gross income, your family size, and the poverty guidelines, your monthly payment amount could be larger or smaller year to year, but will never exceed the monthly payment amount you would make under a standard 10 year repayment plan. You may find the IBR calculator available at finaid.org helpful in calculating what your monthly payments would be under IBR.

21. If I pay on my Direct Loan under IBR while serving in AmeriCorps, must I continue to work in a public service job for my Direct Loan to be forgiven?

Not necessarily. If you continue to make payments under IBR, the balance of your loan and any accrued interest will be forgiven after 25 years regardless of whether you were in a public service job. (See proposed 34 CFR § 682.215(f)). PSLF offers forgiveness in as few as 10 years (120 payments), but you must have been working in a public service job while

making payments to qualify.

## AMERICORPS MEMBER HANDBOOK RECEIPT

I have received a copy of the 2011 – 2012 AmeriCorps Member Handbook. I understand and agree that it is my responsibility to read and familiarize myself with the policies and procedures contained in the handbook. I agree to seek guidance from my supervisor for any areas that I do not clearly understand.

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AmeriCorps Member Signature Date

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Print Name