

Sent: Thursday, October 18, 2012 12:17 PM
Subject: Restrictions on Legislative Lobbying and Partisan Political Activity

Greetings CNCS-Supported Grantees and Sponsoring Organizations,

Now that the 2012 political season is in full swing, we are issuing this memorandum as a reminder for those overseeing, operating, and serving in national and community service programs supported by the Corporation for National and Community Service (CNCS) about the rules concerning legislative lobbying and partisan politics.

Generally, grantee staff and program participants **may not** (1) attempt to influence legislation, including activity related to the appropriations process, or (2) participate in or endorse political events or activities while charging time to a CNCS-supported program, accumulating service or training hours towards an education award, or otherwise performing activities supported by CNCS. Please note that Section 132A of the National and Community Service Act (42 U.S.C. § 12584a) specifically prohibits the following partisan and/or political activities:

- attempting to influence legislation;
- engaging in partisan political activities or other activities designed to influence the outcome of an election to Federal, state or local public office;
- participation in activities that are likely to include advocacy for political parties, platforms or candidates, proposed legislation, or elected officials; and
- conducting a voter registration drive.

In addition, Section 403 of the Domestic Volunteer Service Act (42 U.S.C. § 5043) specifically prohibits programs funded under that law from:

- attempting to influence the outcome of any election to Federal, state or local office;
- any voter registration activity (including transporting voters or prospective voters to the polls); and
- attempting to influence legislation.

Individuals **may** exercise their First Amendment rights, including participating in the political process, as long as it is done on their own initiative, on their own time, and using non-CNCS funds and resources. But in doing so, it is very important to avoid even a perception that national and community service staff or participants are engaging in impermissible political activities in those capacities.

For example, if your organization engages in lobbying activities you must be careful to document that such activities are outside the scope of your CNCS-funded program. Separate accounting for costs is crucial on this particular point. As another example, wearing AmeriCorps gear while participating in a political event may result in an allegation that the AmeriCorps program is supporting political activities, even if that is not the case. If your organization signs a public petition advocating some legislative action, you should be certain it identifies itself by its organizational name rather than as a CNCS-funded program.

It is paramount that all of our national and community service programs proceed with utmost care to avoid the reality and perception that Federal resources are being mis-directed to political activities. Clearly-presented orientation materials and regular reinforcement of these rules with staff and participants will reduce risks in this area.

CNCS's Office of Inspector General operates a Hotline for reports of fraud, waste, abuse of authority, or mismanagement, at 1-800-452-8210 or via e-mail at hotline@cncsoig.gov.

Please see below for answers to frequently asked questions on this topic that will provide you with additional helpful information.

Thank you,

Valerie Green
General Counsel

FREQUENTLY-ASKED QUESTIONS REGARDING RESTRICTIONS ON LEGISLATIVE LOBBYING AND PARTISAN POLITICAL ACTIVITY

Our program's annual report shows the value of national and community service and is designed, in part, to persuade our community to support our program and other programs supported by CNCS. Is this permitted?

The restrictions on legislative lobbying do not apply to efforts like this to educate the general public, provided that the materials are not specifically designed to generate lobbying activities.

What if I provide a factual, technical presentation to a legislator who is visiting our program and at the end the legislator makes an unexpected announcement that he or she has decided to co-sponsor legislation to support national service?

There is nothing wrong with hosting an informational site visit by an elected official. If your presentation is informational and focuses on a topic directly related to your organization's performance under a grant program, the fact that a legislator reaches and announces this conclusion spontaneously does not in itself make the presentation unallowable.

May a local program supervisor visit elected officials in Washington, D.C.?

The threshold question is whether the costs of such a trip would be a reasonable and necessary program expense given your approved budget and the specific purposes of your grant award. In addition, assuming this first criterion is met, the OMB Cost Principles for nonprofits and institutions of higher education have an additional requirement: travel, lodging, and meal costs may be allowed only if they are incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the hearing's convener. Because such costs are allowable under very limited circumstances, you should seek guidance from your program officer at CNCS ahead of time.

As a program director, I periodically travel to Washington, D.C. to educate our elected officials about our program's achievements. What happens if CNCS determines that the costs of my visits are not reasonable and necessary expenses of the program?

If CNCS determines that the costs are not reasonable and necessary, the costs would be disallowed as a program expense and your organization would not be reimbursed for them.

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

No, you should steer clear of any event that could appear to be partisan in nature.

While I am in Washington, D.C. attending a program director's conference, am I prohibited from visiting my elected officials during a break in the conference?

No so long as such activities are incidental to your primary purpose in traveling to Washington for a training event. But don't charge the cab fare to your grant!

I work for a national non-profit organization that receives a grant to operate an AmeriCorps program. My position is partially funded under the AmeriCorps grant and partially funded by non-federal sources. Can I lobby on issues related to AmeriCorps when I am not on AmeriCorps time?

The restrictions apply only to the use of Federal grant funds (including matching funds) and to projects and programs supported by CNCS. You should be careful to document that any lobbying is done during the time that is not charged to your CNCS grant and that your lobbying activities are not part of the AmeriCorps program.

I am the executive director of a State Commission. Our Cost Principles say nothing about legislative lobbying being an unallowable cost. What are the rules for States?

For states that receive grants from CNCS, the absence of guidance in the OMB Cost Principles requires you to review your grant award's provisions. For example, CNCS has made it a condition of grant awards to State Commissions that its subgrantee AmeriCorps programs (including staff and participants) may not engage in any effort to influence legislation.

This leaves situations when the State Commission is acting solely on its own behalf. If the activity is not charged to the administrative grant provided to the State Commission by CNCS, the activity is outside our oversight authority. If the activity is charged to the CNCS grant, the standard is whether the proposed activity or cost is reasonable and necessary given your approved budget and the purpose of the grant. You should direct any specific question on this point to your CNCS program officer.

If a particular activity is not specifically disallowed under the applicable OMB Cost Principles or grant terms, does that mean it is allowed?

Not necessarily. OMB Cost Principles do not authorize costs or expenditures; they merely limit the allowability of costs or expenditures. The burden is on the grantee to demonstrate that a particular cost is consistent with the approved budget and properly chargeable to the grant as reasonable and necessary -- not merely that it is not on the list of disallowed costs. This is ultimately a determination for CNCS to make.

Doesn't the Domestic Volunteer Service Act give programs specific statutory authority to lobby concerning appropriations or authorization legislation?

You are right about the authority in the DVSA, but DVSA programs are currently subject to a superseding proviso in their annual appropriations statute that prohibits the use of appropriated funds to engage in any activity that is designed to influence legislation or appropriations pending before the Congress or any State legislature.

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

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

Does that mean an organization receiving CNCS funds may not take part in the political process?

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

On a conference call designed to get more organizations involved in service, a caller asks how to get volunteers involved in a legislative lobbying effort. What should we do if we're hosting the call?

You should remind the participants on the call that its purpose is to get more people and organizations involved in service addressing community needs and that it would be inappropriate to use the call for any other purpose.