Dear Program Directors,

During this time of great challenge, we know that you and your programs are having to spend all of your time helping yourself and others address challenges, minimize risk, and help support people’s abilities to be productive, continue in their service, and stay safe and healthy.

Knowing this, ASC has created a decision making tree to help you and your programs determine alternative activities (service, training, and/or fundraising) your members can do if shut downs and health risks are a reality.

Ultimately, we all know that we have to keep an eye on compliance and make sure we do our due diligence to make the best decisions we can while maintaining an eye on using funds and time for the best possible activities that still make an important impact.

**PROHIBITED ACTIVITIES**

With that said, it is still important to remember that members and staff charged to the grant CANNOT under any circumstance while earning hours or perceived to be earning hours, participate in any of the prohibited activities. Additionally, members cannot recruit and/or manage volunteers to do any of the activities on the prohibited activities list. A list of these prohibited activities can be found at <https://www.ecfr.gov/cgi-bin/text-idx?SID=f11e85460f6d0f8966e318fa1740fe33&mc=true&node=se45.5.2520_165&rgn=div8>.

**UNALLOWABLE ACTIVITIES**

There are also UNALLOWABLE activities that members cannot engage in which are also still applicable, but due to the current guidance issued by CNCS, have changed slightly for which we will discuss now.

Following is a list of current activities that are considered unallowable. Please note that certain activities have an asterisk by them which means there are temporary adjustments that have been made based on the current CNCS guidance related to the coronavirus.

* Activities that **fall outside the scope** of the approved grant, measures, and position description (unless amended and activities fall in line with grant and measures)\*

Following are the related questions (as of 3/13/20 – please note that more updates could be provided at a later time) that come directly from the CNCS coronavirus guidance issued specifically to AmeriCorps State and National program on their website at <https://www.nationalservice.gov/coronavirus>

\* **1. In the event that AmeriCorps State and National service locations are closed (e.g., schools, etc.), or the grantee cannot continue its funded service activity because of disruption at one or more service site due to COVID-19, will CNCS permit service activities that are not included in approved notice of grant agreement, such as food delivery to families under quarantine?**

If a service activity is disrupted due to COVID-19, grant recipients may develop other types of service activities that are not specifically defined in the grant and should obtain written (email) approval from their AmeriCorps Program Manager as soon as practicable. For Formula Funded programs, Volunteer Tennessee can approve different service activities. For Competitively Funded programs, activities will need to be approved by our CNCS program officer.

New activities must not be otherwise prohibited or unallowable (e.g., lobbying). The new approved service activity can begin immediately, and the grant recipient should expect to take steps to amend the grant. In the meantime, the grantee should carefully document all the costs associated with the new service activities.

**4. May ASN members earn hours when their service sites are closed due to COVID-19?**

To earn hours, a member must engage in service activity. 42 U.S.C. §12602 (a)(2). Accordingly, grant recipients may not give members constructive credit for hours that were not served. However, to the extent training or teleservice is possible, CNCS will generously approve such deviations from the grantee’s normal policies and practices if the deviation is documented and approved by the grantee’s leadership and the planned national service is disrupted due to COVID-19.

**5. In light of the FAQ related to payment of stipends during service interruptions, should programs suspend members from the program if service locations are closed?**

Programs may decide to suspend AmeriCorps members during a service interruption because COVID-19 temporarily halts the member’s service period. Grant recipients may develop alternative activities for the members.

**6. Do you anticipate a change to the teleservice policy for AmeriCorps State and National members? If a site were to close for more than 2 days within a pay period, are members allowed to teleserve for more than those 2 days?**

CNCS considers the COVID-19-related challenges facing AmeriCorps State and National grantees to be a rare and unique circumstance where programs might increasingly employ teleservice when it is appropriate and compatible for achieving program objectives.

AmeriCorps State and National’s policy is that teleservice should be rare and thus does not specify a maximum number of days that teleservice is allowed. AmeriCorps State and National does not anticipate changing existing teleservice guidance. The AmeriCorps State and National guidance on teleservice can be found here:

<https://www.nationalservice.gov/sites/default/files/documents/ASN%20006%20Teleservice%20Guidance.pdf>.

**9. May AmeriCorps State and National members be paid living allowances while Suspended from service due to program closures related to the COVID-19?**

In order to provide grantees the maximum flexibility as a result of COVID-19, CNCS has determined that AmeriCorps State and National members may be paid living allowances and benefits while they are in a Suspended from Service status, if the reason for suspension is due to COVID-19. Programs can also elect not to pay living allowances if they suspend their AmeriCorps State and National members.

If an individual is suspended for any other reason, the living allowance and other benefits are also to be suspended. If a grantee organization decides to continue to pay members while they are in a Suspended status, they must be prepared to obtain additional funding to cover living allowance and benefit expenses once members are reinstated.

Programs should keep in mind that if or when they re-start the program and take members off suspension, they will have to continue paying the living allowance and benefits as members accrue hours.  This may necessitate some programs raising additional funds for those costs as they are unlikely to have budgeted for living allowances and benefits beyond their initial program duration.

**11. How can Full Cost Fixed Amount Grant recipients cover the cost of continuing to pay living allowances and benefits to AmeriCorps members if the members are not able to perform service hours? Can Full Cost Fixed Amount grant recipients draw funding amounts based on the total award value for filled member positions?**

CNCS does not have the authority to alter the method for calculating the amount of funding a program may claim as a Full Cost Fixed Amount Award. The basis for calculating the amount of award funds that can be retained by a program is based on the proportion of hours served by members in relation to the number of hours required for each member’s term of service. CNCS recognizes the financial challenge that Full Cost Fixed Amount grant recipients may face in administering their program while program activities are disrupted.

Four alternatives available to grantees with Full Cost Fixed Amount awards, include:

1. Identify alternative service activities that members can perform to earn service hours so programs may continue drawing funds;
2. Continue to pay member living allowance but Suspend members because service activities have been disrupted by COVID-19;
3. Let members remain in In-Service status and continue paying the living allowance and benefits; or
4. Exit the member for Compelling Personal Circumstances due to the disruption of service activities related to COVID-19.

**13. May members be exited for Compelling Personal Circumstances if they are unable to serve?**

Within AmeriCorps State and National, grantees determine compelling personal circumstances. Extended site closures and sustained disruptions could reasonably justify a compelling personal circumstances exit under [45 CFR § 2522.230 (a) Release for compelling personal circumstances](https://www.ecfr.gov/cgi-bin/text-idx?SID=0a2922ea7568108e73b731b7f72daa3b&mc=true&node=se45.5.2522_1230&rgn=div8).

* Member Training that exceeds the 20 percent aggregate rule**\***

**14. If an AmeriCorps State and National program allows members to do additional training at a time that they cannot serve at their sites, will they be allowed to exceed the maximum 20 percent aggregate training hours?**

No, per [45 CFR § 2520.50 How much time may AmeriCorps members in my program spend in education and training activities?](https://www.law.cornell.edu/cfr/text/45/2520.50), “No more than 20 percent of the aggregate of all AmeriCorps member service hours in your program, as reflected in the member enrollments in the National Service Trust, may be spent in education and training activities.”

* Federal and State Assistance that serves as the sole activity of a member - “for the **sole purpose of referring individuals to Federal assistance programs or State assistance programs** funded in part by the Federal Government.”
* Activities that would **violate the non-duplication and non-displacement requirements:**
1. Nonduplication - 45 CFR §2540.100 (e)
* Corporation assistance **may not be used to duplicate an activity that is already available** in the locality of a program. And, unless the requirements of paragraph (f) of this section are met, Corporation assistance will not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency in which such entity resides.
1. Nondisplacement -45 CFR § §2540.100 (f)
* An employer **may not displace an employee or position**, **including partial displacement** such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program receiving Corporation assistance.
* An organization **may not displace a volunteer** by using a participant in a program receiving Corporation assistance.
* A service opportunity will **not** be created under this chapter that will **infringe in any manner on the promotional opportunity** of an employed individual.
* A participant in a program receiving Corporation assistance **may not perform any services or duties or engage in activities that would otherwise be performed by an employee** as part of the assigned duties of such employee.
* A participant in any program receiving assistance under this chapter **may not** perform any services or duties, or engage in activities, that—
	+ Will **supplant the hiring of employed workers**; or
	+ Are services, duties, or activities with respect to which an individual **has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures**.
* A participant in any program receiving assistance under this chapter **may not perform services or duties that have been performed by or were assigned to any**—
	+ Presently employed worker;
	+ Employee who recently resigned or was discharged;
	+ Employee who is subject to a reduction in force or who has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;
	+ Employee who is on leave (terminal, temporary, vacation, emergency, or sick); or
	+ Employee who is on strike or who is being locked out.
* **Using Team Leaders in a staff capacity** i.e. supervising members, program development and coordination, signing member timesheets, evaluating member performance, disciplining AmeriCorps members, enrolling/dismissing AmeriCorps members, writing and/or signing program reports, managing the program’s payroll and budget, to name a few;
* **Raise funds for living allowances or for an organization's general** (as opposed to project) **operating expenses or endowment**;
* **Write a grant application** to the Corporation or to any other **Federal agency**;
* Spend **more than 10%** of term of service performing **fundraising activities -**  focused ONLY on raising resources directly in support of AmeriCorps program service activities; and
* Such **other activities as CNCS may determine** unallowable.

**DUE DILIGENCE**

In terms of due diligence, we recommend the following steps for all grantees that need to modify member activities that are outside of what is approved in the grant and/or member position description:

1. Develop an amendment with new and approved member activities and/or training (approved by Program Officer/Portfolio Manager per CNCS), that is electronically signed by the member and Program Director through a true electronic signature mechanism (i.e. docusign, hellosign, eversign, etc.) that is attached to the currently signed MSA and Position Descriptions.
2. If allowing teleservice, create a policy that includes the CNCS required elements (see link previously provided), along with a process that shows the teleservice approval process and keep all documentation in each applicable member file.
3. Create a verification system to determine reasonableness and accuracy of time claimed.
4. Hold regular supervision – a consistent phone call or web based conference call with a written agenda and minutes that are kept.
5. Require members to keep a daily or weekly log with notes of time spent in service and/or training.
6. Hold a webinar that you record so you can provide new guidance to your members (you can use free conference call or zoom at no cost).
7. Provide written guidance that was discussed on webinar.

Remember – the **definition of due diligence** is: Reasonable steps taken by a person in order to satisfy a legal requirement; the care that a reasonable person exercises to avoid harm.

**DECISION MAKING QUESTIONS**

So with all of this information, we suggest you move through the following questions to helpmake determinations on the best steps to take to support members.

**Question 1**: Are there any activities outlined in your current grant and/or member position descriptions that members can still do with no amendment necessary?

[ ]  Yes – develop guidance both verbal and in writing to help direct them to these activities

[ ]  No – go to Question 2

**Question 2**: Are there any activities that members can do that still focus on the problem your current grant addresses that may be outside of their currently approved activities or be performed in a different way, but still help to support the need? Following are a few examples:

Example 1: If you are an AmeriCorps program that focuses on literacy tutoring, your members could develop online resources for families to support continued literacy or develop learning boxes that can be distributed to families.

Example 2: If you are an AmeriCorps program that focuses on economic opportunity and provide crisis mitigation or intake services, can your organization set up google numbers or a “masked” number or provide loaner laptops to provide remote intake or tele-intake.

[ ]  Yes – follow the due diligence guidelines previously outlined

[ ]  No – move to question 3

**Question 3**: Are there activities that are outside of what was approved by the grant and do not relate to the problem you are working to address, but could be considered as allowable activities because they help “strengthen the community” or support “larger national service days or initiatives”? Examples could include:

* Volunteer management – helping support your organization or sites to develop systems for volunteer outreach, screening, selection, training,
* Planning out future national service day events
* Putting together a legacy binder for future members
* Serving alongside school staff to help with meal delivery

[ ]  Yes – follow the due diligence guidelines previously outlined

[ ]  No – move to question 4

**Question 4:** Are there other community organizations that have opportunities to volunteer (aligned or not aligned with current grant) that do not require close contact with others?

[ ]  Yes – follow the due diligence guidelines previously outlined

[ ]  No – move to question 5

**Question 5**: If you have not exceeded the 20% training cap (individual or aggregate depending on your state commission), is there training and/or learning members can do or that you can provide at a distance that can be verified?

[ ]  Yes – follow the due diligence guidelines previously outlined

[ ]  No – move to question 6

Following are a list of training resources that might help support their learning and development:

* Webinars that you provide
* Other online learning resources i.e. Coursera where you can access many courses for free and it logs what you have taken

**Question 6**: If you have not exceeded the 10% fundraising cap, are there fund development activities that your members can do at a distance that can be verified? Examples could include:

* Develop an online fundraiser to collect books or raise money for books for families
* Develop an online fundraiser to collect canned goods for families

[ ]  Yes – follow the due diligence guidelines previously outlined

[ ]  No – see below “next step” options

**FINAL STEPS**

If you answer no to all of the above questions or the challenge to verify hours and maintain social distance protocols is too great, here are your options (with more guidance provided by CNCS through the AmeriCorps State National Coronavirus FAQs - <https://www.nationalservice.gov/coronavirus>):

* Suspend with pay;
* Suspend without pay; or
* Exit for compelling personal circumstance, putting documentation in member files citing shutdown for coronavirus.