



## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### 45 CFR Part 2522

### RIN 3045-AA84

### AmeriCorps State and National Updates

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Final rule.

**SUMMARY:** The Corporation for National and Community Service (operating as AmeriCorps) is revising regulations governing the number of terms for which AmeriCorps will fund living allowances and other benefits for AmeriCorps State and National members. Specifically, this rule increases the flexibility of the current rule by providing that AmeriCorps funding may be used for living allowances and other benefits for members for as long as it takes the members to either earn the aggregate value of two full-time Segal Education Awards or four terms, whichever is longer.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Jennifer Bastress Tahmasebi, Deputy Director, AmeriCorps State and National, at [JBastressTahmasebi@americorps.gov](mailto:JBastressTahmasebi@americorps.gov), (202) 606-6667; or Elizabeth Appel, Associate General Counsel, at [EAppel@americorps.gov](mailto:EAppel@americorps.gov), (202) 967-5070.

### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Overview of Final Rule (§ 2522.235)
- III. Response to Public Comments
  - A. Comments in Support of Proposed Rule
  - B. Comments in Opposition to Proposed Rule
  - C. Comments Requesting Changes to Proposed Rule
- IV. Regulatory Analyses
  - A. Executive Orders 12866 and 13563
  - B. Regulatory Flexibility Act
  - C. Small Business Regulatory Enforcement Fairness Act (SBREFA)

- D. Unfunded Mandates Reform Act of 1995
- E. Paperwork Reduction Act
- F. Executive Order 13132, Federalism
- G. Takings (Executive Order 12630)
- H. Civil Justice Reform (Executive Order 12988)
- I. Consultation with Indian Tribes (Executive Order 13175)
- I. Good Cause for Immediate Effective Date

## **I. Background**

The National and Community Service Act of 1990, as amended, 42 U.S.C. 12501 *et seq.*, aims to encourage United States citizens to engage in national service and to expand education opportunity by rewarding individuals who participate in national service with an increased ability to pursue higher education. Specifically, the Act establishes the National Service Trust and authorizes AmeriCorps to use funds from that Trust to provide education awards to eligible individuals who have fulfilled a term of service in an approved national service position and meet other applicable requirements. The Act also requires AmeriCorps State and National programs to provide living allowances and certain other benefits to full-time national service program participants. Notices of funding opportunity specify that programs may choose to provide living allowances with AmeriCorps funding to members who serve less than full-time.

The “term of service” that members serve in AmeriCorps State and National can be of different lengths, depending on the needs of the program. Full-time service is defined as 1,700 hours of service during a period of not more than one year. *See* 45 CFR 2522.220(a)(1). Part-time service is defined as 900 hours of service during a period of not more than two years. *See* 45 CFR 2522.220(a)(2). Reduced part-time terms of service may include terms at a reduced number of hours for categories of participants in certain approved AmeriCorps programs and on a case-by-case basis. *See* 45 CFR 2522.220(a)(3). Summer program terms are considered part-time programs and members serve less than 1,700 hours. *See* 45 CFR 2522.220(a)(4).

Under 45 CFR 2525.50, AmeriCorps State and National members can earn up to the value of two full-time education awards. Because full-time and less than full-time (e.g., part-time, reduced part-time, summer) terms of service have different hour requirements, each takes a different number of terms to reach the aggregate value of the two full-time education awards. 45 CFR 2522.220; 2525.100.

During the period that AmeriCorps State and National members are serving and earning Segal Education awards, AmeriCorps funds living allowances and other member benefits (e.g., financial benefits during an extended term of disaster-related service, childcare, health care). The current regulation, which took effect October 1, 2024, allows members to serve as many terms as necessary to earn the value of two full-time education awards, regardless of whether those terms are served on a full-time or less than full-time basis. The prior regulation allowed AmeriCorps funding to support members' living allowances and benefits for up to four terms of service.

## **II. Overview of Final Rule**

Overall, this final rule is intended to increase the flexibility of AmeriCorps State and National regulations that removed the four-term limit on AmeriCorps funding for AmeriCorps State and National members' living allowances and other benefits. *See* 89 FR 46024 (May 28, 2024).

The final rule, which appears at 45 CFR 2522.235, retains the current provision that allows AmeriCorps funding for living allowances and other member benefits for the number of terms it takes to earn the aggregate value of two full-time education awards and also reinstates the former provision that allowed AmeriCorps funding for up to four terms. Thus, living allowances and other benefits for members who serve less than full time may continue to be funded for however many terms it takes those members to earn the aggregate value of two education awards, while living allowances and other benefits

for members who have earned the aggregate value of two full-time education awards in fewer than four terms may continue to be funded up to four terms.

### **III. Response to Public Comments**

AmeriCorps published a proposed rule on August 28, 2024, at 89 FR 68845 and received 46 public comments in response by the September 27, 2024, comment deadline. Summaries of the points raised in those comments, and AmeriCorps' responses, are provided here. No changes to the proposed regulatory text were made in response to these comments or otherwise, as explained in the response to comments.

#### **A. Comments in Support of Proposed Rule**

Several commenters stated their general support for providing AmeriCorps funding for members' living allowances and other benefits for service in AmeriCorps State and National programs for either four terms or as many terms needed to attain the aggregate value of two-full time education awards, whichever is longer. The commenters highlighted that the flexibility in term limits supports members, grantees, and the communities served by, for example: protecting members' opportunity to serve; offering the necessary support for members to complete their service; supporting members' personal and professional growth; enabling members to earn the statutorily allotted two Segal Education awards; benefiting the grantee organizations through members' institutional knowledge and providing organizations with the ability to better determine recruitment and funding needs; creating a value-added benefit for communities and people served; and ensuring continuity of service in rural and remote communities.

Other commenters specifically noted that allowing continued service into third and fourth terms, after two education awards have been attained, is beneficial. For example, one commenter described the importance of her experience as a member who continued to serve a third term of service after earning the aggregate value of two full-time education awards and credited her third term of service as contributing to her growth

as a leader, allowing her to earn her teaching certification, and changing the trajectory of her life. A commenter speaking from the perspective of a grantee stated that third- and fourth-year full-time members contribute institutional knowledge and expertise to programs, a “spirit of service,” efficacy, and continuity at service sites. Another commenter noted that consecutive terms of service translate into professional development and leadership opportunities for AmeriCorps members. Several commenters expressed the importance of allowing up to four terms for programs in rural and remote communities where members typically serve full-time and it can be difficult to recruit members due to smaller applicant pools.

Some commenters emphasized their support for continuing to allow members to serve beyond four terms until they have earned the value of two full-time education awards. One commenter noted that some members serve only during summers and require more than four terms to earn the value of two full-time education awards. Another commenter stated that the major issue their organization encountered was that members reached the four-term limit (under the prior rule) before they earned the maximum education award and that allowing them to continue to serve to earn the education award addresses this issue.

*Response:* This final rule carries forward the proposal that allows AmeriCorps funding to be used for living allowances and other benefits for as long as it takes members to either earn the aggregate value of two Segal Education Awards or four terms, whichever is longer. AmeriCorps agrees that the flexibility provides the benefits noted by the commenters above.

## **B. Comments in Opposition to the Proposed Rule**

A few commenters expressed opposition to the rule in general. Several expressed opposition to the regulation’s imposition of any limit on the use of AmeriCorps funding for member benefits. Some of these commenters suggested that imposing a term limit on

members' service is an effort to fix an issue that does not exist. The commenters stated that only a minute percentage of members serve for third and fourth terms in AmeriCorps State and National programs, and that assumptions that members will serve indefinitely, or that extended terms prevent others from engaging in service, are unwarranted. These commenters stated that any limit presents a barrier to service and discourages service at different stages of life.

*Response:* AmeriCorps declines to remove all limits to the time during which it will fund members' living allowances and other benefits because such limits are necessary to safeguard taxpayer funds and encourage and support members' transition to higher education or the workforce.

One commenter opposed the four-term limit prong of the rule, suggesting that the four-term timeframe is too long. They stated that after their third and fourth years, members no longer actively gain new skills and should instead transition from AmeriCorps into the workforce.

*Response:* The final rule reinstates the four-term limit that previously existed to account for situations described by other commenters whereby members may want to continue serving after earning the value of two education awards and the organization and community benefit from their continued service.

Several commenters from AmeriCorps State and National sponsor/grantee organizations criticized the Agency's statements that terms are "unlimited" as misleading because the organizations rely on the AmeriCorps funding for members' living allowances and other benefits and would have to absorb the living allowance and benefit costs for members serving beyond the AmeriCorps-funded limit (when the member earns the value of two full-time education awards or four terms, whichever is longer) in order to truly allow for "unlimited" terms. These commenters stated that the financial burden would lead to reduced capacity of organizations—particularly in rural and remote areas—

fewer serving members, diminished community impacts, and programmatic struggles to maintain ongoing efforts.

*Response:* AmeriCorps is not changing its approach to limiting funding of living allowances and other benefits for members after a certain point, it is only changing the point at which the limit occurs – that is, when the member earns the value of two full-time education awards or has served four terms, whichever is longer. The final rule makes clear, as the proposed rule did, that programs may choose to fund or not to fund additional member terms. Programs may base their decisions on their financial capacity and the potential effects cited by the commenters.

One commenter expressed criticism of the either/or nature of the rule. The commenter highlighted the potential for members who struggle to meet expectations and are engaged under an improvement plan to continue to be eligible for continued terms and benefits.

*Response:* Organizations can hold AmeriCorps State and National members to performance standards and may decline continued service by a member who fails to meet their performance standards.

### **C. Comments Requesting Changes to the Proposed Rule**

A handful of commenters suggested incorporating a waiver option that allows programs to request an extension on the number of terms supported by AmeriCorps. These commenters stated that some members, such as individuals with disabilities or members serving in rural communities where recruiting is difficult, may benefit from serving beyond four full-time terms.

*Response:* The final rule does not include a waiver option but AmeriCorps may consider incorporating one in the future.

Some commenters suggested that AmeriCorps State and National align the member term limits to that of the Volunteers in Service to America (VISTA) program.

Commenters stated that the proposed term limit should be increased to five years, equivalent to the current term limit of VISTA members, to provide consistency across streams of service.

*Response:* The five-year term limit that applies to VISTA members reflects that VISTA terms are by their nature full-time, such that each term is roughly equivalent to a year. In contrast, AmeriCorps State and National members may serve summer, part-time, or reduced part-time terms in lieu of full-time terms. Imposing a limit based on years rather than terms would prevent members who serve less than full-time from earning the maximum education award value.

Several commenters sought clarification on how term limits and education award limits are tracked. Commenters noted that a program's access to how many terms a member has served is only available once that member's enrollment is pending, which creates a significant recruitment burden, as few members know with precision how many terms they have served.

*Response:* AmeriCorps will keep this tracking challenge in mind as it develops its new online member system.

Similarly, a few commenters asked for clarification on whether AmeriCorps will fund a member's entire term if they earn the maximum education award mid-way through a term.

*Response:* If a member earns the maximum education award mid-way through a term (and has already served four terms), AmeriCorps will continue to fund the member's service through the completion of that term.

One commenter requested clarification on how incomplete terms will be considered in calculating a member's progress toward a term limit.

*Response:* AmeriCorps' online member management system tracks an individual's number of terms.

One commenter proposed changing the four-term limitation to the equivalent of four terms of full-time service. Among the reasons the commenter provided for this suggestion were that it would clarify what terms count toward the limit and ensure less-than-full-time members do not “term out” before accessing the same opportunities and education award value as full-time members.

*Response:* The commenter’s suggestion is a novel approach. If AmeriCorps considers adopting this suggestion in the future, it will do so through a new proposed rulemaking.

Two commenters suggested that, in anticipation of Congressional legislation that proposes an increase in the number of education awards a member is eligible for, the regulatory language should be broadened in an effort to provide flexibility. They suggested updating the language from “two full-time education awards” to the “statutorily allowed maximum education awards.”

*Response:* The final rule retains the language specifying two full-time education awards because that language reflects the current statute. Should Congress change that statutorily allowed maximum, AmeriCorps will undertake a separate rulemaking to update the regulation to reflect that change.

#### **IV. Regulatory Analyses**

##### **A. Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs in the Office of Management and Budget has determined that this rule

is not a significant regulatory action, and therefore is not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review.

### **B. Regulatory Flexibility Act**

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), AmeriCorps certifies that this rule will not have a significant economic impact on a substantial number of small entities. Most AmeriCorps State and National grantees are State Commissions and organizations that do not meet the definition of a small entity. Therefore, AmeriCorps has not performed the regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for rules that are expected to have such results.

### **C. Small Business Regulatory Enforcement Fairness Act (SBREFA)**

The Office of Information and Regulatory Affairs in the Office of Management and Budget has determined that this is not a major rule under 5 U.S.C. 804(2) because this rule: (1) does not have an annual effect on the economy of \$100 million or more; (2) will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and (3) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets.

### **D. Unfunded Mandates Reform Act of 1995**

For purposes of title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in Federal, State, local, or Tribal governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

### **E. Paperwork Reduction Act**

Under the PRA, an agency may not conduct or sponsor a collection of information unless the collections of information display valid control numbers. This rule does not include any information collection.

#### **F. Executive Order 13132, Federalism**

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rulemaking does not have any federalism implications, as described above.

#### **G. Takings (Executive Order 12630)**

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 because this proposed rule does not affect individual property rights protected by the Fifth Amendment or involve a compensable “taking.” A takings implication assessment is not required.

#### **H. Civil Justice Reform (Executive Order 12988)**

This rule complies with the requirements of Executive Order 12988. Specifically, this rulemaking: (a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

#### **I. Consultation With Indian Tribes (Executive Order 13175)**

AmeriCorps recognizes the inherent sovereignty of Indian Tribes and their right to self-governance. We have evaluated this rulemaking under our consultation policy and the criteria in Executive Order 13175 and determined that this rule does not impose substantial direct effects on federally recognized Tribes.

## **J. Good Cause for Immediate Effective Date**

AmeriCorps has determined, pursuant to 5 U.S.C. 553(d)(3), that good cause exists to make this rule effective upon publication, because this rule relieves a restriction by increasing the amount of time AmeriCorps will fund members' living allowances and other benefits beyond the point when the member attains the value of two full-time education awards, up to the point the member has served four terms, so long as the member has not already served four terms by the time the member attains the value of two full-time education awards. In other words, the final rule increases flexibility by providing AmeriCorps funding for the longer of the service time it takes a member to attain the value of two full-time education awards or serve four terms. The primary purpose of a delayed effective date is unnecessary for this rule because there is no time needed to prepare to comply with, or take other action to comply with, this rule. The four-term limit preexisted the October 1, 2024, rule that replaced that limit with the amount of time it takes a member to earn the value of two full-time education awards, and this final rule reinstates that four-term limit when it exceeds the time it takes a member to earn the value of two full-time education awards.

### **List of Subjects in 45 CFR Part 2522**

Grant programs-social programs, Reporting and recordkeeping requirements, Volunteers.

For the reasons stated in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service amends chapter XXV, title 45 of the Code of Federal Regulations as follows:

### **PART 2522—AMERICORPS PARTICIPANTS, PROGRAMS, AND APPLICANTS**

1. The authority citation for part 2522 continues to read as follows:

**Authority:** 42 U.S.C. 12571-12595; 12651b-12651d; E.O. 13331, 69 FR 9911, Sec. 1612, Pub. L. 111-13.

2. Revise § 2522.235 to read as follows:

**§ 2522.235 Is there a limit on the number of terms an individual may serve in an AmeriCorps State and National program?**

The number of terms an individual may serve in an AmeriCorps State and National program is not limited, but the limitations in paragraphs (a) and (b) of this section apply.

(a) An individual may attain only the aggregate value of two full-time education awards.

(b) AmeriCorps will fund the benefits described in §§ 2522.240 through 2522.250 only for the number of terms needed to attain the aggregate value of two full-time education awards or for four terms, whichever is longer. Grantees may choose to fund benefits for any additional terms.

**Andrea Grill,**

*Acting General Counsel.*

[FR Doc. 2025-00984 Filed: 1/16/2025 8:45 am; Publication Date: 1/17/2025]