



**DATE:** May 30, 2023

**TO:** Directors of AmeriCorps Seniors and VISTA Projects

**FROM:** Fernando Laguarda  
General Counsel

**SUBJECT:** Income Disregard for Payments to Participants in AmeriCorps Seniors and AmeriCorps VISTA Programs

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AmeriCorps<sup>1</sup> offers payments (for example, stipends or allowances) to certain participants in its AmeriCorps Seniors and AmeriCorps VISTA programs under the Domestic Volunteer Service Act of 1973, as amended (DVSA). The DVSA provides that these payments are to be disregarded (that is, not included in a calculation of a person's income) when Federal, state, and local governmental entities determine whether people who serve through AmeriCorps Seniors and AmeriCorps VISTA are eligible for assistance and benefits. We have written this memorandum so that you can help ensure that our provisions are applied correctly.

Section 404 of the DVSA, 42 U.S.C. § 5044 (f) (1) and (2), addresses income disregard. It applies to participants in both AmeriCorps VISTA and in the AmeriCorps Seniors programs, including VISTA members and Senior Companions, Foster Grandparents, and RSVP and Senior Demonstration Program volunteers. The relevant part of Section 404 provides as follows:

(f)(1) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of, or eligibility for, assistance or services any such volunteers may be receiving under any governmental program, except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is greater.

(f)(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under Title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.

Subsection (f)(1) says that income disregard provisions do not apply if participants or volunteers get payments for their service that are equivalent to or greater than the applicable minimum wage. It is important for governmental entities to know that only AmeriCorps may make this determination. To

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<sup>1</sup> Since September 2020, AmeriCorps has been the operating name for the Corporation for National and Community Service (CNCS). CNCS continues to be the Federal agency's legal name.





date, payments to participants and volunteers have not equaled or exceeded the greater of the Federal or state minimum wage. Therefore, income disregard rules apply.

In addition, Section 418 of the DVSA, 42 U.S.C. § 5058, which applies only to AmeriCorps Seniors programs, provides that:

Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to Title II of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, workers' compensation, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act [October 1, 1973].

In summary, sections 404 and 418 mean that:

(1) When a government program is determining a person's eligibility for public assistance or services, or whether to reduce or eliminate these, it may not take into account payments the person got through service in either the AmeriCorps VISTA or AmeriCorps Seniors programs.

(2) A government program may not deny assistance because a service participant fails or refuses to look for, or accept, employment or training. This includes welfare to work programs.

(3) Payments to service participants and volunteers cannot be treated as wages or compensation for any government purposes.

Please share this memorandum with anyone who may have questions concerning this issue. In the event this memorandum does not resolve the issue, please contact either of these attorneys in AmeriCorps' Office of General Counsel:

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Thank you.