

proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve and disapprove pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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

*Federalism* (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to approve or disapprove a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

#### *G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a state rule implementing a Federal standard.

#### *H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to

perform activities conducive to the use of VCS.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 10, 2010.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2010–3513 Filed 2–22–10; 8:45 am]

**BILLING CODE 6560–50–P**

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## **CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**45 CFR Parts 2510, 2522, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2550, 2551, and 2552**

**RIN 3045–AA51**

### **Serve America Act Amendments to the National and Community Service Act of 1990**

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

**ACTION:** Proposed rule.

**SUMMARY:** On April 21, 2009, President Obama signed into law the Edward M. Kennedy Serve America Act (“The Serve America Act” or “SAA”). The Serve America Act reauthorizes and expands national service programs administered by the Corporation for National and Community Service (“the Corporation”) by amending the National and Community Service Act of 1990 (“NCSA” or “the Act”) and the Domestic Volunteer Service Act of 1973 (“DVSA”). The Corporation publishes this proposed rule to implement changes to the operation of the National Service Trust under the Serve America Act. This proposed rule provides flexibility for exceptions to the 80 percent cost reimbursement requirement for Senior Companion and Foster Grandparent programs based on hardship. In addition, this proposed rule reorders and renumbers certain parts of the existing regulations, adds new definitions, and makes several minor technical edits.

**DATES:** To be sure your comments are considered, they must reach the Corporation or or before April 26, 2010.

**ADDRESSES:** You may send your comments electronically through the Federal government’s one-stop rulemaking Web site at <http://www.regulations.gov>. You may also mail or deliver your comments to Amy

Borgstrom, Docket Manager, Corporation for National and Community Service, 1201 New York Ave., NW., Washington, DC 20525. Members of the public may review copies of all communications received on this rulemaking at <http://www.regulations.gov> or at the Corporation's Washington, DC headquarters.

**FOR FURTHER INFORMATION CONTACT:**

Amy Borgstrom, Docket Manager, Corporation for National and Community Service, [aborgstrom@cns.gov](mailto:aborgstrom@cns.gov), TDD 606-3472. Persons with visual impairments may request this rule in an alternate format.

**SUPPLEMENTARY INFORMATION:**

**I. Invitation To Comment**

We invite you to submit comments about these proposed regulations. To ensure that your comments have maximum value in helping us develop the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange your comments in the same order as the proposed regulations. During and after the comment period, you may inspect all public comments about these proposed regulations on <http://www.regulations.gov> or by contacting the Docket Manager listed in this notice.

*Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record*

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact Amy Borgstrom, Docket Manager, Corporation for National and Community Service, [aborgstrom@cns.gov](mailto:aborgstrom@cns.gov), TDD 606-3472.

**II. Background**

On April 21, 2009, President Obama signed into law the Edward M. Kennedy Serve America Act (Serve America Act). The Serve America Act reauthorizes and expands national service programs administered by the Corporation by amending the NCSA and DVSA. The Corporation engages four million Americans in service each year, including approximately 75,000 AmeriCorps members, 492,000 Senior Corps Volunteers, 1.1 million Learn and Serve America students, and 2.2 million additional community volunteers

mobilized and managed through agency programs.

Section 6101 of the Serve America Act authorizes the Chief Executive Officer of the Corporation to issue such regulations as may be necessary to carry out the amendments required under the Act. To fulfill that responsibility, on September 10, 2009, the Corporation issued an interim final rule to implement time-sensitive changes to the Corporation's AmeriCorps State and National, Senior Corps, and Learn and Serve America program regulations. (74 FR 46495). The changes resulting from the interim final rule were required as a result of amendments to the NCSA and DVSA by the Serve America Act, which took effect for most purposes on October 1, 2009.

In that rule, we stated our intention to engage in full notice and comment rulemaking to implement those amendments mandated by the Serve America Act that did not require immediate regulatory action. This rule primarily proposes amendments and additions to existing regulations regarding the National Service Trust, including limitations on education award receipt, the available uses of education awards, eligibility to receive an education award, eligibility to transfer an education award, and the amount of an education award. This proposed rule also addresses the limitation on the number of terms an individual may serve in an AmeriCorps State and National program. The proposed rule allows flexibility in managing match requirements for Senior Companion and Foster Grandparent programs facing hardship. Finally, this rule makes several technical corrections inadvertently omitted from the interim final rule, including an amendment to the provision on pre-approval of Subtitle C formula programs, amendments to the AmeriCorps State and National selection criteria, and an amendment to include a reference to the Department of Education's new Public Service Loan Forgiveness Program. An overview of specific changes for each program is set out below.

**III. Proposed Rule**

*Definitions (§§ 2510.20, 2525.20)*

The National Service Trust is an account in the U.S. Treasury authorized to disburse education awards to national service participants. Prior to passage of the Serve America Act, the Corporation was authorized to disburse one type of education award from the National Service Trust—a national service education award, also known as a Segal

AmeriCorps education award, available upon successful completion of a term of service in an approved AmeriCorps position. An "approved AmeriCorps position" is one of the positions described in Sec. 123 of the Act, including a position in AmeriCorps State and National, AmeriCorps NCCC, AmeriCorps VISTA, and the newly authorized ServeAmerica Fellowship program.

The Serve America Act authorizes two new types of education awards: (1) A Silver Scholar education award of \$1,000, available upon successful completion of a term of service in an approved Silver Scholar position; and (2) a Summer of Service education award of between \$500 and \$750, available upon successful completion of a term of service in an approved Summer of Service position. To align with the amended statute, this proposed rule amends § 2525.20 by adding three separate definitions for "AmeriCorps education award," "Silver Scholar education award," and "Summer of Service education award."

Each of these awards is based upon successful completion of a term of service in an approved position. For a position of any type to be considered "approved," the Corporation must have agreed to provide a corresponding education award upon successful completion of a term of service in that position. This proposed rule amends § 2510.20 by adding definitions to clarify that in order for a Summer of Service or Silver Scholar position to be considered approved, it must be approved by the Corporation for the receipt of a Silver Scholar or Summer of Service education award, respectively.

There are different service requirements for each type of education award. A term of service in an approved AmeriCorps position is for at least 1,700 hours during a period of not more than one year, with options for part-time or reduced part-time terms of service, as defined in § 2522.220, for AmeriCorps State and National members. A term of service in an approved Silver Scholar position must be for at least 350 hours during a period of one year. A term of service in an approved Summer of Service position must be for at least 100 hours "during the summer months." To clarify that what constitutes a term of service will vary depending upon the program, this proposed rule amends the definition of "term of service" in § 2525.20 to align with the NCSA by providing separate descriptions for terms of service in approved AmeriCorps, Silver Scholar, and Summer of Service positions.

As stated above, a Summer of Service education award will generally be \$500. However, the NCSA authorizes the Corporation to establish a Summer of Service award of \$750 for “economically disadvantaged youth.” The Corporation proposes in this rule to define “economically disadvantaged youth” for the purposes of the larger Summer of Service education award as a child who is eligible for a free lunch and breakfast under the Richard B. Russell National School Lunch Act. This proposed rule amends § 2525.20 to add this definition.

*Eligibility To Receive an Education Award (§ 2526.10)*

The Serve America Act created two new types of education awards: Silver Scholar education awards and Summer of Service education awards, for \$1000 and \$500 respectively, available upon successful completion of an approved Silver Scholar or Summer of Service position. This proposed rule amends § 2526.10 to include individuals who successfully complete terms of service in approved Silver Scholar or Summer of positions as eligible to receive an education award from the National Service Trust.

Previously, the list of eligibility criteria to receive an education award in § 2526.10 has reflected the eligibility criteria to serve in AmeriCorps State and National, AmeriCorps NCCC, and AmeriCorps VISTA, including age and education criteria that would necessarily exclude individuals in Summer of Service positions, which are available for “youth who will be enrolled in any of grades 6 through 12 at the end of the summer” (42 U.S.C. 12563(c)(8)). To align with the amended statute, this proposed rule amends § 2526.10 to defer to the eligibility criteria of individual programs for program-specific criteria.

Under the proposed rule, for an individual to be eligible to receive an education award, the organization responsible for the individual’s supervision must certify: (1) That the individual met the applicable eligibility requirements for the approved national service position, approved Silver Scholar position, or approved Summer of Service position, as appropriate; (2) that the individual successfully completed the term of service in the AmeriCorps, Silver Scholar, or Summer of Service program; and (3) that the individual is a citizen, national, or lawful permanent resident alien of the United States.

*Successful Completion of a Term of Service (§ 2526.15)*

Sec. 146 of the NCSA directs the Corporation to determine a process by which an organization responsible for the supervision of a national service participant may determine whether the participant successfully completed a term of service. This proposed rule adds a new § 2526.15 specifying the process for determining whether an individual successfully completed a term of service for the purposes of receiving an education award from the National Service Trust. Under this rule, organizations supervising AmeriCorps State and National participants would continue to use the existing process detailed at § 2522.220(d). For all other programs, the organization would be required to conduct an end-of-term evaluation for each participant to determine whether: (1) The individual completed the required number of service hours for the respective term of service; (2) the individual performed satisfactorily on assignments, tasks, or projects; and (3) the individual met any other performance criteria as communicated to the member by the organization. What is considered “satisfactory performance” is within the discretion of the program. While the Corporation encourages programs to keep records of end-of-term evaluations of member performance for their own purposes, for the purpose of this requirement certification that an individual did or did not successfully complete a term of service will be deemed to incorporate an end-of-term evaluation. A certification will not, however, suffice as documentation of hours served.

*Release for Compelling Personal Circumstances (§§ 2526.20–25)*

Sec. 147 of the NCSA authorizes the Corporation to make education awards in five different amount categories: (1) An amount for successful completion of a full-time approved national service position; (2) an amount for successful completion of a part-time approved national service position; (3) an amount for partial completion of service, available upon release for compelling personal circumstances from an approved national service position; (4) an amount for a Silver Scholar education award for successful completion of an approved Silver Scholar position; and (5) an amount for a Summer of Service education award for successful completion of an approved Summer of Service position. Partial awards are described only in the context of release for compelling

personal circumstances from an approved national service position. In describing types of service positions in Sec. 146, the Act distinguishes between approved national service positions (which are described in Sec. 123 to include AmeriCorps State and National, AmeriCorps VISTA, AmeriCorps NCCC, and ServeAmerica Fellows), approved Silver Scholar positions, and approved Summer of Service positions, and does not provide for a pro-rated award for a release for compelling personal circumstances from an approved Silver Scholar or Summer of Service position. In summary, there is no authority for a partial award for a release for compelling personal circumstances from a Silver Scholar or Summer of Service position.

This proposed rule amends § 2526.20 and adds a new § 2526.25 to clarify that partial awards will not be available for individuals who are released early from Silver Scholar or Summer of Service positions, even for compelling reasons.

This proposed rule also amends § 2526.20 to reflect the statutory requirement that an individual must have performed satisfactorily prior to being released for compelling personal circumstances in order to receive a partial education award.

*Limitation on Amount of Award Disbursed to Institution of Higher Education (§§ 2528.30–40)*

Prior to the effective date of the Serve America Act, under Sec. 148(c)(6) of the NCSA, the Corporation’s disbursement from an individual’s education award for any period of enrollment at an institution of higher education could not exceed the difference between that individual’s cost of attendance for that period of enrollment and the sum of (1) the individual’s estimated financial assistance for that period under part A of title IV of the Higher Education Act and (2) the individual’s veterans’ benefits as defined under section 480(c) of the Higher Education Act. The Serve America Act amended Sec. 148(c)(6) to no longer consider an individual’s veterans’ benefits in this manner. This proposed rule amends §§ 2528.30 and 40 to align with amended Sec. 148(c)(6) by removing any consideration of an individual’s veterans’ benefits when determining the maximum amount of the individual’s education award that may be disbursed to an institution of higher education.

*Use of Education Award for a Program of Education Approved by the Secretary of Veterans Affairs (§§ 2528.10, 60–80)*

The Serve America Act amended Sec. 148 of the NCSA to add a fifth available

use for an education award. Under the amended law, the education award is available “to pay expenses incurred in enrolling in an educational institution or training establishment that is approved under chapter 36 of title 38, United States Code, or other applicable provisions of law, for offering programs of education, apprenticeship, or on-job training for which educational assistance may be provided by the Secretary of Veterans Affairs.” (42 U.S.C. 12604(a)(4)). This proposed rule amends § 2528.10 to add this use to the list of available uses, and adds rules on the process for using the award for this purpose. Benefits offered under chapter 36 of title 38, U.S.C., were authorized under the Montgomery G.I. Bill and the Post 9/11 G.I. Bill, and will be referred to hereinafter as “G.I. Bill education benefits.” Likewise, courses and programs approved under that chapter will be referred to as “G.I.-approved.”

This proposed rule would require that the institution or training establishment at which an individual requests to use an education award certify under penalty of law that the amount requested would be used to pay all or part of the individual’s expenses attributable to a course, program of education, apprenticeship, or job training program offered by that institution or training establishment, and certify under penalty of law that the course or program for which the individual is requesting to use the education award has been and is currently approved by the State approving agency for the State where the institution or establishment is located, or by the Secretary of Veterans Affairs. The Department of Veterans Affairs is the agency responsible for approving courses or programs of education under chapter 36 of title 38, U.S. Code, and the Corporation defers to the decisions made by the State approving agencies and the Secretary of Veterans Affairs regarding approving—or withdrawing approval—of a program of education; if an institution or establishment cannot verify that a course or program of education has received the requisite approval, the Corporation will not disburse the funds to the school.

Unlike G.I. education benefits, which may be disbursed directly to an individual, under this proposed rule, the education award would be disbursed directly to the educational institution or training establishment.

If an individual for whom the Corporation has disbursed an education award withdraws or fails to complete the period of enrollment at an educational institution or training

establishment in a program of education approved by the Secretary of Veterans Affairs, this proposed rule would require the educational institution or training establishment to provide a prorated refund to the Corporation.

#### *Payment of Accrued Interest (2529.10)*

This proposed rule amends § 2529.10, which currently provides for interest forbearance to individuals serving in approved AmeriCorps positions, to clarify that individuals who successfully complete terms of service in approved Silver Scholar positions may also be eligible for payments of interest accrued on qualified student loans while serving. The proposed rule does not include Summer of Service positions, as Summer of Service positions are reserved for rising 6th through 12th graders who, having not yet enrolled in an institution of higher education, will not yet have incurred qualified students loans.

The Serve America Act also amended Sec. 123 by expanding the list of positions considered to be approved national service positions to include “a position involving service in the ServeAmerica Fellowship program.” The term “approved national service position” is used interchangeably with the term “approved AmeriCorps position.” Thus, although this proposed rule does not explicitly amend § 2529.10 to include ServeAmerica Fellows, they are incorporated by definition.

#### *Amount of AmeriCorps Education Award (§ 2527.10)*

Upon successful completion of a term of service in an approved AmeriCorps position, including positions in AmeriCorps State and National, AmeriCorps VISTA, AmeriCorps NCCC, and Serve America Fellows, an individual is eligible to receive an AmeriCorps education award from the National Service Trust. Prior to the passage of the Serve America Act, the amount of a full-time AmeriCorps education award was set in law at \$4,725.

The Serve America Act amended Sec. 147 of the NCSA by changing the amount of a full-time national service education award to be “equal to the maximum amount of a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1071a) that a student eligible for such Grant may receive in the aggregate \* \* \* for the year for which the national service position is approved by the Corporation.” This proposed rule amends § 2527.10 to conform to the changes in the NCSA in the amount of the full-time award.

The amount of the Pell Grant upon which AmeriCorps education awards will be based may change each year, thus, the amount of an AmeriCorps education award may also change annually. To determine the amount of an AmeriCorps education award, the Corporation will use the amount of the Pell Grant as of October 1 (the first day of the Federal fiscal year) in the fiscal year in which the national service position is approved. For example, if a national service position is approved in September of 2010, the amount of the education award will be based on a full-time amount of \$5,350—the amount of the Pell Grant as of October 1, 2009 (the first day of fiscal year 2010).

The trigger date for determining the amount of an education award for a particular national service position is the date that position is *approved*—not the date the individual begins serving in a national service position. Not all positions that *begin* in a fiscal year will receive an education award based on the amount of the Pell Grant in that fiscal year.

In accordance with the national service laws, funding for education awards are obligated on a different schedule for AmeriCorps VISTA, AmeriCorps NCCC, and AmeriCorps State and National. What follows is a detailed discussion on how the approval date for a national service position is determined for the purposes of establishing the amount of an education award.

For AmeriCorps VISTA, a position is considered to be approved at the time the Corporation enters into an enforceable agreement with an individual, signified by the individual’s taking the VISTA oath of service. (42 U.S.C. 4954(c)). For an AmeriCorps VISTA position, the education award amount is equal to the amount of a Pell Grant on October 1 of the fiscal year in which the VISTA takes the oath of service. For example, a VISTA who takes the oath on any date between October 1, 2009, and September 30, 2010, is eligible for a full-time award amount of \$5,350—the amount of the Pell Grant as of October 1, 2009.

For AmeriCorps NCCC, a position is considered to be approved at the time the Corporation enters into an enforceable agreement with an individual, signified by the individual’s signing of an AmeriCorps NCCC member agreement. For an AmeriCorps NCCC position, the education award amount will be equal to the amount of a Pell Grant on October 1 of the fiscal year in which the AmeriCorps NCCC member signs the member agreement. Therefore, an individual who signs an

AmeriCorps NCCC member agreement on any date between October 1, 2009, and September 10, 2010, will receive an award based on a full-time award amount of \$5,350—the amount of the Pell Grant as of October 1, 2009.

For AmeriCorps State and National, by law, a position is considered to be approved at the time the Corporation executes a grant used to support the AmeriCorps member—not the date an AmeriCorps member takes an oath, signs an agreement, or begins service. As discussed above, the day an individual enters service in AmeriCorps NCCC or AmeriCorps VISTA may make a significant difference in the amount of the education award, as the award for a position will likely be larger if the individual takes an oath of office or signs an agreement on October 1, as opposed to September 30. The same will not be true for AmeriCorps State and National members. AmeriCorps State and National grants are generally made during the Spring and Summer, *i.e.*, in the latter half of a fiscal year. As a result, unlike AmeriCorps NCCC and AmeriCorps VISTA members who are eligible for the new amount of the award as of October 1, the earliest point at which an AmeriCorps member may begin serving in a position funded by those grants may be closer to the end of a fiscal year.

As an example, if an AmeriCorps State program receives a grant on August 1, 2010, and enrolls a member using fiscal year 2010 grant funds on August 3, 2010, that member will receive an education award based on a full-time amount of \$5,350—the amount of the Pell Grant on October 1, 2009, the first day of the fiscal year in which the August 2010 grant was made. If the program then enrolls another member on October 10, 2010, that member will also receive an education award based on the \$5,350 amount—even though at that point a new fiscal year has begun, and the Pell Grant for fiscal year 2011 may have increased as of October 1, 2010. The determining factor is that the member position was approved by the Corporation in fiscal year 2010.

Further, unlike an AmeriCorps NCCC or AmeriCorps VISTA member, whose approval date will closely correlate with the day the individual begins service, it is possible for an AmeriCorps State and National member beginning service in one fiscal year to be supported with funds from a grant made in a prior fiscal year. Therefore, it is possible for two AmeriCorps members starting service on the same day to be supported by two different grant awards made in two different fiscal years, resulting in two

different approval dates and two different education award amounts.

For example, a program might receive a continuation grant on August 1, 2011, but still have grant funds carried over from a grant made in 2010. If the program enrolls two members on August 1, 2011—one supported with the 2010 grant and one supported with the 2011 grant—the one supported with the 2010 grant will be eligible for an award based on a full-time award of \$5,350—the amount of the Pell Grant on October 1, 2009, the first day of the fiscal year in which the 2010 grant was made. The member who is being supported with 2011 funds will be eligible for an award based on whatever the amount of the Pell Grant is on October 1, 2010.

The Corporation recognizes the possibility for confusion among AmeriCorps State and National members, who, unlike AmeriCorps NCCC and AmeriCorps VISTA members, will not be able to rely on their service start dates to figure out the amount of the award they are eligible to receive. To reduce confusion, it is essential for AmeriCorps programs—particularly those with AmeriCorps State and National members—to clearly communicate to each member, prior to the commencement of service, the amount of the education award the individual will receive upon successful completion of the term of service. Beginning with grants made in 2010, AmeriCorps State and National grant provisions will direct grantees to specify the amount of the education award of the funds being used to support the position in the member service agreement.

It is important to remember that the Serve America Act went into effect on October 1, 2009. All positions approved prior to that date are eligible for awards based on a full-time amount of \$4,725. This includes all AmeriCorps State and National positions, even those that began after October 1, 2009, since no AmeriCorps State and National positions have been approved with fiscal year 2010 funds to date.

To learn more about the amount of the education award and how it is determined, visit the AmeriCorps Web site at [http://www.americorps.gov/for\\_individuals/benefits/benefits\\_ed\\_award.asp](http://www.americorps.gov/for_individuals/benefits/benefits_ed_award.asp).

#### *Amount of Silver Scholar and Summer of Service Education Awards (§ 2527.10)*

As previously discussed, the Serve America Act created two new types of education awards: Silver Scholar education awards and Summer of Service education awards. This proposed rule amends § 2527.10 to

include the Silver Scholar education award of \$1000, available upon successful completion of a term of service of at least 350 hours in a Silver Scholar position.

This proposed rule also amends § 2527.10 to include the Summer of Service education award of \$500, available upon successful completion of at least 100 hours in a Summer of Service position. The Corporation may authorize a Summer of Service education award of \$750 if the participant is economically disadvantaged. In order to authorize the increased award, the Corporation must receive a certification from the school with which the participant served that the participant meets the definition of “economically disadvantaged,” defined in this rule as a child that is eligible for a free lunch and breakfast under the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)).

Pro-rated education awards for an early release for compelling personal circumstances from a Silver Scholar or Summer of Service position are not available. If an individual fails to complete either type of term for any reason, the individual will not receive any award. And unlike the AmeriCorps education award described in the previous section, Silver Scholar and Summer of Service education awards will not vary in amount from one year to the next.

#### *Limitation on Value of Education Awards Received (§§ 2526.50–55)*

Prior to the passage of the Serve America Act, the national service laws limited individuals to receiving an education award “only on the basis of the first and second \* \* \* terms of service.” A term of service includes full-time, part-time, or less-than-part-time terms, terms in which the person served at least 15 percent of the term of service, and terms for which an individual was released for misconduct regardless of the amount of time served. Terms range in service hour requirements from 300 hours to more than 1,700 hours, but despite the contrast in the level of commitment required or the service opportunity presented, all terms were previously considered of equal value for the purposes of limiting the receipt of education awards.

The Serve America Act amended the national service laws to no longer limit the receipt of education awards based upon the number of terms served, but rather place the limit on the value of education awards received. Sec. 146(c) now states: “An individual may not receive, through national service educational awards and silver scholar

educational awards, more than an amount equal to the aggregate value of [two] such awards for full-time service.”

The amended law allows for an individual to earn more than two education awards, so long as the aggregate value of all awards received does not exceed the aggregate value of two full-time national service education awards. Significantly, the law does not create an entitlement to receive the aggregate value of two full-time awards; rather, it prohibits an individual from receiving more than the aggregate value of two full-time awards. This proposed rule amends § 2526.50 to align with the amended statutory language.

As previously discussed, the amount of a full-time education award is now tied to the amount of a Pell Grant in the year the position is awarded, and is likely to change each year. The Corporation does not interpret the amended statute to suggest that the *value* of two full-time education awards for the purposes of this section is equal to the dollar amount of two full-time

awards and would thus similarly change on an annual basis, providing a potentially unlimited number of service opportunities and education awards. Nor does the Corporation interpret this change as a means of ensuring that all national service participants receive an identical amount of money. Rather, the Corporation interprets the change in focus from the number of terms served to the value of education awards received as a means of addressing the inequity of limiting individuals to two terms of service when not all terms offer an equivalent service opportunity. In other words, for the purposes of the limitation on education award receipt, value is distinct from amount.

The Corporation considers an education award to be the counterpart to successful completion of a term of service, and while the amount of that award might change, the service opportunity offered by a particular term of service is constant. The Corporation interprets the “value” of a full-time education award to be representative of

the service opportunity upon which it is based, therefore, a limitation of two full-time education awards can be understood as a limitation of two full-time service opportunities.

In order to attribute a value to an award received on the basis of a static service opportunity in an environment in which the award amount may fluctuate annually, the Corporation proposes to measure the *value* of any award amount relative to the amount of a full-time award in a given year. In this rule, the Corporation proposes, for the purposes of this section, that the *value* of an education award is equal to the actual amount of the education award received divided by the amount of a full-time education award in the year the AmeriCorps or Silver Scholar position upon which the award is based was approved. Using this calculation, every award received will be considered to have a *value* between 0 and 1. Although the *amount* of a full-time award may change, the *value* of a full-time award will always be equal to 1.

$$\text{Value of education award received} = \frac{\text{Amount of award Received}}{\text{Amount of full-time award in fiscal year in which position upon which award is based was approved}}$$

For example, an individual who completed a part-time position approved in 2009 received an education award of \$2,362.50. The value of this award is the amount received, \$2,362.50, divided by \$4,725, the amount of a full-time award in the year the position was approved, or .5. Another individual completes a part-time position approved in 2010 and receives an education award of \$2,675. The value of this award is the amount received, \$2,675, divided by \$5,350, the amount of a full-time award in the year the position was approved, or .5. Using this calculation, the value of an award received for part-time service will always be equal to .5.

If an individual leaves a term of service for compelling personal circumstances and receives a pro-rated award, the value attributed to that award will be based on the amount actually received. For example, an individual was released for compelling personal circumstances from a full-time position approved in 2009 after serving 800 hours, and received a pro-rated award of \$2,223.52. The value of this award is the amount of the award received, \$2,223.52, divided by \$4,725, the amount of a full-time award in the year the position was approved, or .47. Another individual was released for

compelling personal circumstances from a full-time position approved in 2010 after serving 800 hours, and received a pro-rated award of \$2,517.64. The value of this award is the amount of the award received, \$2,517.64, divided by \$5,350, the amount of a full-time award in the year the position was approved, or .47.

If an individual exits a term for cause and does not receive an education award, the amount received will be \$0, and therefore no value will be attributed to the individual for purposes of this section. However, an exit for cause will have an impact on the individual’s eligibility to serve subsequent terms of service. A term exited for cause is considered a term of service for the purposes of term limitations for individual programs. For example, if an individual has already served one term of service in AmeriCorps NCCC, and exits a second term in AmeriCorps NCCC for cause, the individual has exhausted the two terms of service one may serve in AmeriCorps NCCC. Additionally, if an individual is released for cause from an approved AmeriCorps position (including positions in AmeriCorps State and National, AmeriCorps VISTA, AmeriCorps NCCC, and Serve America Fellows), and the program determines in the end-of-term evaluation that the

individual served unsatisfactorily, the individual may not be permitted to serve a subsequent term in an approved AmeriCorps position.

For the purpose of transferred awards (discussed further in the section in this preamble on transfer), this rule proposes that the value of the award received by a transferee will be the actual amount of the award received divided by the amount of a full-time award in the year the position for which the transferring individual received the award was approved. For example, if an individual receives an education award based on a term of service approved in 2010, and later transfers \$1,000 of that award to a grandchild, the grandchild will be considered to have received an award value of .19, the result of dividing the amount received, \$1,000, by the amount of a full-time award in 2010, \$5,350. If the transferring individual revokes all or part of an award, this rule proposes that the value considered to be received by the designated individual will be decreased accordingly. An individual who receives the aggregate value of two full-time awards through transferred awards will not be eligible to enroll in a term of service the successful completion of which would result in the receipt of an education award.

Under the proposed rule, an award is considered to be received at the time it becomes available for an individual's use, and the fact that an individual does not use an award does not diminish its value for the purposes of this section. In addition, under the proposed rule an individual who transfers an award will still be considered to have received the award, and the value of the award for the purposes of this section will not be decreased by the amount the individual transfers to a designated individual. For example, if an individual successfully completes two full-time terms of service, and the individual then transfers both full-time awards to a child, both the child and the transferring individual will be considered to have received two full-time awards.

The proposed rule states that an individual may receive no more than the aggregate value of two full-time education awards. In this rule, the Corporation proposes that the aggregate value of awards received will be equal to the sum of the value of each national service education award received (awards received from terms of service in AmeriCorps State and National, AmeriCorps VISTA, AmeriCorps NCCC, or ServeAmerica fellowships), including partial awards, the value of each Silver Scholar award received, and the value of each transferred award received. The calculation of the aggregate value does not include Summer of Service education awards, as these are explicitly excluded by law.

For example, an individual served a full-time term in 2008 and received an award of \$4,725. The same individual served a part-time term in 2009 and received an award of \$2,362.50. The individual enrolls in a minimum-time term in 2010 and receives an award of \$1,132.60. The value of the first award is 1 (\$4,725 divided by \$4,725), the value of the second award is .5 (\$2,362.50 divided by \$4,725), and the value of the third award is .21 (\$1,132.60 divided by \$5,350). The aggregate value of awards received is 1.71 (1 + .5 + .21).

While the amended law separates the previously indivisible limitations on number of terms served and education awards received, the limitation on education awards an individual is eligible to receive may impact an individual's eligibility to enroll in a subsequent term of service. The proposed rule states that an individual may not enroll in a subsequent term of service if successful completion of that term of service would result in receipt of an education award the value of which, when added to the aggregate

value of awards previously received, would be greater than 2. This limitation would not, however, prevent an individual from enrolling in a term of service for which the individual chooses to waive receipt of an education award, including a VISTA term of service for which the individual elects to receive an end-of-service stipend.

Using the example above, if an individual had received an aggregate value of 1.71 awards in the past, that individual may be eligible to enroll in a quarter-time, minimum-time, reduced part-time, or Silver Scholar position, but would not be eligible to enroll in a part-time or full-time position, since the value of a part-time award, .5, plus 1.71, is greater than 2.

The Corporation has received questions regarding whether an individual could enroll in a term of service, and exit for compelling personal circumstances in order to receive a pro-rated award that, when added to other awards received, would not exceed the aggregate value of two full-time education awards. Exiting in order to receive an education award of a particular amount would not be considered to be a compelling personal circumstance. The proposed rule is based upon the assumption that every individual who enrolls in a term of service does so with the intention of successfully completing that term. Therefore, an individual would not be permitted to enroll in a term with the intention of leaving early in order to receive a pro-rated award of a lesser value.

The Corporation has received questions about whether awards received prior to the effective date of the Serve America Act will be included in determining the value of education awards received. The national service laws, as amended by the Serve America Act, do not differentiate between awards received prior to the effective date. All awards earned in the past will have a value attributed to them for the purposes of this section. Thus, under the proposed rule, if an individual has received two full-time education awards in the past, that individual is not eligible to receive another education award, and may not enroll in a term of service that will result in the receipt of an education award.

Separate from the limitation on education award receipt, individual Corporation programs—AmeriCorps NCCC, AmeriCorps VISTA, and AmeriCorps State & National—have their own term limitations. Each full-time term, part-time term, and term for which the individual leaves after serving 15% or for misconduct is

considered one term for the purposes of these program-specific term limitations. Thus, if an individual serves two terms of service in AmeriCorps NCCC and exits from one for compelling personal circumstances, that individual may be able to enroll in a minimum time AmeriCorps State and National or AmeriCorps VISTA position, but will not be able to enroll in another AmeriCorps NCCC term because the individual has already met the term limit for that program. Because the limit on the value of education awards an individual may receive necessarily will limit the number of terms an individual will be able to serve across the Corporation's AmeriCorps and Silver Scholar programs, the Corporation does not intend to set an overall limit for number of terms across programs at this time.

#### *Transfer of Education Awards (Part 2530)*

The Serve America Act amended Subtitle D of title I of the NCSA to authorize individuals to transfer an education award, with limitations on who can transfer an award, and who can receive a transferred award. By statute, to transfer an award, an individual must: (1) Have successfully completed a term of service in an approved AmeriCorps State and National or Silver Scholar position; and (2) have been age 55 or older before beginning that term of service. To receive an award, an individual must: (1) Be designated by a qualifying transferring individual; (2) be the child, grandchild, or foster child of the transferring individual; and (3) be a citizen, national, or lawful permanent resident alien of the United States. The effective date of this provision was October 1, 2009; only individuals beginning service on or after that date will be eligible to transfer an education award.

Sec. 148(f) specifies that the "designated individual," meaning the child, grandchild, or foster child designated by the transferring individual to receive the award, may use the award for the purposes described in paragraphs (b), (c), and (d) of that section—*i.e.*, to repay qualified student loans, to pay for current educational expenses at an institution of higher education, or to pay expenses incurred in an approved school-to-work program. The school-to-work program, authorized under the School-to-Work Opportunities Act of 1994, sunsetted in 2001, thus, in practice, the designated individual would be able to use the award only for current educational expenses or to repay qualified student loans. The NCSA does not extend the

use of the award to pay expenses incurred in enrolling in an institution or training establishment approved under the G.I. Bill to designated individuals, nor does it permit designated individuals to receive interest forbearance payments as described in Sec. 148(e).

This section of the NCSA also permits a transferring individual to, “on any date on which a portion of the education award remains unused, modify or revoke the transfer of the educational award with respect to that portion.”

This proposed rule adds a new Part 2530 on transfer, including rules reflecting statutory guidelines, and details on the processes for requesting both transfers and revocations of transferred awards. The NCSA also includes a provision requiring the Corporation to “establish requirements to prevent waste, fraud, or abuse in connection with the transfer of an educational award and to protect the integrity of the educational award under this subsection.” This proposed rule includes several measures intended to protect a transferred education award from waste, fraud, or abuse.

First, as part of the process for the transferring individual to request the transfer and the process for the designated individual to accept the transfer, the proposed rule would require both the transferring individual and the designated individual to provide a certification under penalty of law that each meets the criteria to transfer, or receive, a transferred award. As with all certifications, an individual may be asked to produce verifying documentation.

Second, the proposed rule would limit an individual to making a single transfer of an education award that is attributable to a single term of service, thereby limiting the opportunity for waste, fraud, or abuse. In order to transfer awards to more than one designated individual, the transferring individual will need to earn awards for more than one term of service. Under no circumstance may an individual partition a single award attributable to completion of a single term of service to multiple designated individuals. Notably, this proposed rule would permit an individual to transfer all or a portion of an award to a designated individual, thus, the transferring individual could keep a portion of the award for his or her use, and transfer a portion of the award to a designated individual.

As stated above, a transferring individual also has the authority to revoke any unused portion of an education award from a designated

individual. As another measure to prevent waste, fraud, or abuse, and in line with the Corporation’s intent to limit individuals to a single transfer from each award, a transferring individual would not, as a general rule, be permitted to re-transfer a revoked award to another individual.

The proposed rule includes an exception to this general rule for those situations in which the Corporation considers the award to have been revoked for good cause, as demonstrated by the transferring individual. For example, if a transferring individual revokes the full amount transferred upon the death of a designated individual, the Corporation would permit the transferring individual to re-transfer the award in whole or in part.

This proposed rule also includes several clarifying provisions. As discussed in the section in this rule on the limitation on the value of education awards an individual may receive, the NCSA prohibits an individual from receiving more than the aggregate value of two education awards. Under this proposed rule, an award would be considered to be “received” at the time it becomes available for an individual’s use. The fact that an individual transfers an award to a designated individual would not decrease the value of awards the individual would be considered to have received. Transferred awards a designated individual receives would also be considered when calculating the aggregate value of awards received.

For example, if an individual receives two full-time awards, and transfers both awards to a child, both the transferring and designated individual will be considered to have received the aggregate value of two full-time awards, and neither will be eligible to receive additional AmeriCorps or Silver Scholar awards from the National Service Trust. Notably, because Summer of Service education awards are not included in the calculation of aggregate value of education awards received, a designated individual could still receive Summer of Service education awards even if the designated individual had already received the aggregate value of two full-time education awards. As discussed in the section on calculating the value of an education award, a transferred award would have a value based on the amount of a full-time education award in the year the position on which the transferring individual’s award was based was approved.

Finally, under the national service laws, an individual has seven years from the date the individual completes a term of service upon which an award is based to use an award, and a

designated individual receiving a transferred award has ten years from the date the term of service is completed to use the award. For example, if an individual receives an award for a term completed in 2010, and transfers the award five years after receiving the award, the designated individual would have five years to use the award. In accordance with these statutory time frames, the proposed rule permits an individual to revoke an award at any point prior to its use, but the individual may only use a revoked award for his or her use if the award has not expired. For example, if an individual received an award for a term completed in 2010, transferred the award five years after receiving the award, and then revoked the unused portion six years after receiving the award, the transferring individual would have only one year to use the award. If, however, the transferring individual had revoked the award eight years after it was originally earned, the award would expire immediately upon revocation, because although the award had not yet expired for use by the designated individual, it would have expired for the transferring individual a year earlier.

*Periods of Availability for Silver Scholar, Summer of Service, and Transferred Education Awards (§ 2526.40)*

Under Sec. 146 of the NCSA, the period of availability for a Silver Scholar education award is seven years from the date the individual completes a term of service. The period of availability for a Summer of Service education award is ten years from the date the individual completes the term of service. Individuals who receive a transferred award may use the award within ten years of the date the transferring individual completes the term of service that is the basis for the award—not the date the designated individual receives the transferred award. For example, if an individual transfers an award five years after the date the individual completed the term of service, the designated individual would have five years to use the award—ten years from the date the transferring individual completed the term of service. This proposed rule amends section § 2526.40 to include periods of availability for Silver Scholar, Summer of Service, and transferred education awards.

Similar to national service education awards, Sec. 146 authorizes the Corporation to grant an extension to the period of availability for a Silver Scholar education award, a Summer of Service education award, or a

transferred award if the individual requesting the extension “was unavoidably prevented” from using the education award or if the individual “performed another term of service in an approved national service position, approved summer of service position, or approved silver scholar position during that period.”

The ten year period of availability for transferred education awards has raised questions about whether extensions will be granted if a designated individual is still too young to use an award by its expiration date. The NCSA does not specify a minimum age for the designated individual. Thus, if an individual transfers an award to a grandchild who was four years old at the time the individual completed the term of service that was the basis of the award, the ten year period of availability will expire when the child is fourteen. It is unlikely that, at that time, the child would have had an opportunity to use the education award, thus, the award would expire unused.

Sec. 148(f) of the NCSA directs the Corporation to “establish requirements to prevent waste, fraud, or abuse in connection with the transfer of an educational award and to protect the integrity of the educational award.” To permit extensions for a designated individual who is too young to use an award would mean, in some cases, extensions for up to nine years beyond the original expiration date—nearly twice the statutory period of availability. The longer the period of availability, the greater the risk of fraud, waste, or abuse. Further, Congress selected ten years as a reasonable period of availability for a transferred award. Based upon these considerations, this proposed rule specifies that an individual who is unable to use an education award as a result of being too young will not be considered to be unavoidably prevented from using the education award. Individuals wishing to transfer an award will be reminded at the time they request a transfer that while there is no minimum age for a designated individual, extensions based on age will not be granted.

#### *Certifications of Successful Completion of Terms of Service (§ 2626.10)*

The Serve America Act amended the NCSA by adding a new section 146A, which imposes a requirement that a national service program certify under penalty of law that an individual successfully completed an agreed-upon term of service to be eligible to receive an education award from the National Service Trust. Specifically Sec. 146A(a) provides that, in making disbursements

from the National Service Trust, the Corporation is authorized to act on the basis of certifications that individuals who served in approved AmeriCorps positions, approved Summer of Service positions, or approved Silver Scholar positions, successfully completed the term of service required to be eligible for an education award. These certifications must be made by the entity which selected the individual to serve in the position, and supervised the individual’s performance of their service. This proposed rule implements Sec. 146A(a) by including the certification requirement in the determination of who is eligible to receive an education award under § 2526.10(a)(2)(A), (C), and (D).

#### *Effect of Erroneous Certifications of Successful Completion of Terms of Service (§ 2526.70)*

Under Sec. 146A(b) of the NCSA, if the Corporation finds that a certification made under Sec. 146A(a) is erroneous or incorrect, the Corporation shall assess a charge against the national service program which made the certification. The charge is to be assessed for the amount of any payment which the Corporation has or may make from the National Service Trust based on the erroneous certification. In assessing the amount of a charge, the Corporation is to consider the full facts and circumstances surrounding the erroneous or incorrect certification.

This proposed rule implements Sec. 146A(b) and specifies that any Corporation determination in regard to a charge under § 2526.70 will not preclude the Corporation from taking any other actions which may be warranted under other applicable authorities, such as the Program Fraud Civil Remedies Act.

#### *Public Service Loan Forgiveness and AmeriCorps (§ 2526.20)*

On September 27, 2007, President Bush signed the College Cost Reduction and Access Act of 2007 (Pub. L. 110–84) into law. The CCRAA created the Public Service Loan Forgiveness Program. This program offers forgiveness for outstanding Federal Direct loans for those individuals who make 120 qualifying payments after October 1, 2007, while working full-time in a “public service job.” In the Department of Education’s implementing rules, “public service job” has been defined to include “serving in a full-time AmeriCorps \* \* \* position.” (34 CFR 685.219(c); 73 FR 63527, Oct. 23, 2008). “AmeriCorps position” as defined in that section would include full-time service in AmeriCorps State and

National, AmeriCorps NCCC, AmeriCorps VISTA, and ServeAmerica Fellowships.

Generally, an individual cannot receive an education award and related interest benefits from the National Service Trust as well as other loan cancellation benefits for the same service. For example, the law authorizing the Teacher Loan Forgiveness Program (TLFP) explicitly states that “no borrower may, for the same service, receive a benefit under this [program] and subtitle D of title I of the National and Community Service Act of 1990.” (20 U.S.C. 1078–10(g)(2)). Thus, an AmeriCorps member serving in a teacher corps program would have to choose whether to count the service year towards TLFP or AmeriCorps, but would not be able take both benefits for the same period of service.

The Public Service Loan Forgiveness Program is an exception to this general rule. Service performed by an individual serving in a full-time AmeriCorps position may be credited to both an education award and Public Service Loan Forgiveness.

This rule amends § 2526.60 to include an exception to the general prohibition on an individual’s receiving an education award and related interest benefits from the National Service Trust as well as other loan cancellation benefits for the Public Service Loan Forgiveness Program.

For more information on qualifying for Public Service Loan Forgiveness while serving in AmeriCorps, please visit: [http://www.nationalservice.gov/for\\_organizations/highered/ccraa.asp](http://www.nationalservice.gov/for_organizations/highered/ccraa.asp).

#### *Term Limits for AmeriCorps State and National (§ 2522.235)*

AmeriCorps State and National is the national service program funded under subtitle C of title I of the NCSA. Prior to passage of the Serve America Act, Sec. 140(h) of the NCSA included a limitation that no program could use any Federal funds to support an individual during a third term of service in an AmeriCorps State and National position. The Serve America Act removed Sec. 140(h) of the NCSA, thereby eliminating the statutory limitation on the number of terms in which one could be supported with Federal funds while serving in AmeriCorps State and National position. The Serve America Act amended Sec. 146(c) by changing the limitation from receiving awards for the first two terms of service to receiving up to the value of two full-time education awards. As discussed in the section on the limitation of education award receipt, these amendments now give the

Corporation the flexibility to support a single individual for more than two terms of service in less-than-full-time terms. The amendments do not guarantee an individual may serve more than two terms of service, nor do they direct the Corporation to provide an individual with the opportunity to serve more than two terms of service. Rather, the amended provision establishes a new limitation that the Corporation must enforce.

Theoretically, using the calculation for the aggregate value of awards received (discussed previously in this preamble), without term limitations, an individual could potentially serve as few as two full-time terms, or as many as 9 minimum-time terms, in AmeriCorps State and National. The number of minimum-time terms could be even higher if an individual leaves one or more terms for compelling personal circumstances. A minimum-time term may be completed over two years. Thus, without term limitations, a single individual could potentially serve in AmeriCorps State and National for nearly 20 years.

By statute, one of the Corporation's guiding purposes is to "encourage citizens of the United States \* \* \* to engage in full-time or part-time national service." In furtherance of this, the Corporation's longstanding policy is to limit the number of terms an individual may serve in an approved national service position to ensure that there are opportunities for all interested Americans to serve. Increasingly, applications for AmeriCorps far exceed available positions. The Corporation's current limitation of two terms of service in AmeriCorps State and National means that, after a maximum of two terms, a position will be available for a new individual to have an opportunity to serve.

As discussed previously in this preamble, however, the Corporation appreciates that the law as amended affords more opportunities to serve for those individuals who serve in less-than-full-time positions. To balance the increased flexibility afforded by the amended statute with the Corporation's interest in providing more Americans an opportunity to serve, the Corporation proposes to double the number of available terms in AmeriCorps State and National from two to four. This would provide twice as many opportunities as were previously available, but would place a reasonable limit in order to ensure service opportunities are available for other interested participants.

This proposed rule amends § 2522.235 to limit the number of terms

an individual may serve in AmeriCorps State and National to four. A term of service includes full-time, part-time, and reduced-part-time terms, as well as any term from which one exits after serving 15 percent of the agreed term of service or a term from which one is exited for misconduct. If a person leaves for reasons other than misconduct prior to serving 15%, the term is not considered a term of service for the purposes of this limitation. This does not mean that an individual is guaranteed four terms of service in AmeriCorps State and National.

Exhaustion of the number of terms one serves in AmeriCorps State and National would not necessarily prevent an individual from enrolling in a position in another national service program, such as AmeriCorps NCCC, AmeriCorps VISTA, or Silver Scholars, and receiving an education award for successful completion of the service. For example, if an individual serves four minimum-time terms in AmeriCorps State and National, for an aggregate value of .85 education awards received, the individual could enroll in a term in another national service program such as AmeriCorps VISTA, AmeriCorps NCCC, or Silver Scholars.

However, under the proposed rule, an individual may not enroll in any term of service for which the successful completion would result in receipt of an award that, when combined with the aggregate value of awards previously received, would exceed the value of two full-time education awards. Thus, if an individual served for two full-time terms of service in AmeriCorps State and National and received two full-time education awards, the individual would not be eligible to enroll in any term in AmeriCorps State and National, AmeriCorps NCCC, AmeriCorps VISTA, Silver Scholar, or other national service program for which the successful completion would result in the receipt of an AmeriCorps or Silver Scholar education award.

Please note that the Corporation's current regulatory limitation of two terms of service in AmeriCorps State and National fits within the current statutory framework, and will remain in effect until this proposed rule has been finalized.

#### *Selection Criteria Sub-Categories for AmeriCorps State and National (Part 2522)*

The Serve America Act amended Subtitle C of title I of the NCSA by placing greater emphasis on a grantee's impact. Programs are now described not only in terms of their programmatic activities and the unmet community

needs the programs are addressing, but also in terms of 'performance indicators' that demonstrate the program's impact. Additionally, the NCSA now requires the Corporation to each year fund at least two of five statutorily described programs, including programs that address unmet education, health, economic opportunity, veteran, and clean energy needs. While the Corporation can accommodate these changes in future grant competitions without changing our current published selection criteria, the current "sub-categories" of the basic selection criteria and the published weights for the sub-categories are an imperfect fit for the increased emphasis on performance and funding of programs addressing particular community needs.

This proposed rule would remove §§ 2522.425–435, the sections that describe the sub-categories of the three basic selection criteria, as well as §§ 2522.445–448, the sections that set out the weights given to the sub-categories.

The Corporation will, in the future, publish specific sub-categories for the basic selection criteria as well as funding priorities in the Notice of Funds Availability. This will enable the Corporation to adjust application components and the weights given to sub-components. Additionally, this will further the Corporation's continued efforts to simplify the application process, as supported by the Serve America Act.

The Corporation will continue to use a multi-stage process, including review by a panel of experts, and will continue to make funding decisions based on the same basic selection criteria of program design, organizational capability, and cost-effectiveness and budget adequacy. The weights given to the basic selection criteria—50% for program design, 25% for organizational capability, and 25% for cost-effectiveness and budget adequacy—would not change. The change in location of published sub-categories and their respective weights does not signify a change in the Corporation's standards for transparency, clarity, and consistency in considering applications; all applicants will be made aware of sub-categories of selection criteria in advance of the application and review process.

Please note that for the 2010 AmeriCorps State and National grant competition, the currently published selection criteria, sub-categories, and weights remain in effect.

### *Applications for the Same Project* (§ 2522.320)

The Serve America Act amended Sec. 130(g) of the NCSA, which previously required the Corporation to “reject an application \* \* \* if a project proposed to be conducted using assistance requested by the applicant is already described in another application pending before the Corporation.” As amended, this section now prohibits the Corporation from providing “more than [one] grant under the national service laws for a fiscal year to support the same project under the national service laws.” This provision, as amended, supports the Corporation’s longstanding practice not to provide more than one grant to the same project. In addition, the revised language increases the Corporation’s flexibility in structuring its grant application review process.

This proposed rule aligns the regulations with the amended statute by removing the regulatory conditions under which an applicant may submit multiple applications for the same project. In the future, the Corporation will include guidance on applying for different funds for the same project in the grant application instructions. For the purposes of preventing the same project from receiving more than one grant under the national service laws, the Corporation will continue to use the characteristics currently listed in § 2522.340 when determining whether two projects are the same.

Please note that the current regulations at §§ 2522.320–330 prohibiting the submission of more than one application for the same project in a single competition remain in effect for the 2010 AmeriCorps State and National grant competition.

### *Pre-Approval of Formula Programs* (§ 2550.80)

Sec. 130(f) of the NCSA was amended by the Serve America Act by removing the requirement that a State’s application for Subtitle C (of title I of the NCSA) formula funds include an assurance that formula programs be selected on a competitive basis prior to submission of the application. This amendment aligns with language from the Corporation’s annual appropriations and conforms to current practice. States continue to be required to provide an assurance that formula programs will be selected on a competitive basis, however, States may select these programs after submitting the application for Subtitle C formula funds. This proposed rule amends § 2550.80 to reflect this change.

### *Hardship Waiver Permitted for Cost Reimbursement Cap for Senior Companion and Foster Grandparent Programs* (§§ 2551.92, 2552.92)

Under current regulations, the total of cost reimbursements attributable to Senior Companions or Foster Grandparents, including stipends, insurance, transportation, meals, physical examinations, and recognition, may not exceed 80 percent of the Federal share of the grant award. Because of the financial challenges faced by some organizations as a result of the recent economic downturn and the real potential for a decrease in non-Federal support, the proposed rule permits the Corporation to allow an exception to the 80 percent limit in cases of demonstrated need. Demonstrated need would include initial difficulties in developing local funding sources in the first three years of operation; an economic downturn, natural disaster, or other similar event that severely reduces sources of local funding support; or the unexpected discontinuation of a long-term local funding source.

#### SUMMARY OF REDESIGNATIONS

Previous location	Proposed location
§ 2522.220(c)	§ 2522.220(b)
§ 2522.220(d)	§ 2522.220(c)
§ 2522.220(e)	§ 2522.220(d)
§ 2522.220(f)	§ 2522.220(e)
§ 2522.220(g)	§ 2522.220(f)
Part 2530	Part 2531
Part 2531	Part 2532
Part 2532	Part 2533

#### IV. Effective Dates

The Corporation intends to make any final rule based on this proposed rule effective no sooner than 30 days after the final rule is published in the **Federal Register**. We will include an implementation schedule in the final rule, based on the final rule’s date of publication.

#### V. Non-Regulatory Issues

##### *Executive Order 12866*

Under Executive Order 12866, the Chief Executive Officer must determine whether this regulatory action is “significant” and therefore subject to the requirements of the Executive Order and review by OMB. Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may (1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the

environment, public health or safety, or State, local or Tribal governments, or communities in a material way (also referred to as an “economically significant” rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) create novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive order. The Chief Executive Officer has determined that this regulatory action is not significant under the Executive Order.

##### *Regulatory Flexibility Act*

The Corporation has determined that the regulatory action will not result in (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

##### *Paperwork Reduction Act of 1995*

Sections 2526.10, 2528.10, 2528.30, 2528.40, 2528.60, 2528.70, 2529.10, 2530.30, and 2530.85 contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Corporation has submitted a copy of these sections to the Office of Management Budget (OMB) for its review.

Section 2526.10 identifies two new categories of individuals eligible to receive education awards—individuals who have successfully completed terms of service in Silver Scholar and Summer of Service positions. The proposed addition requires the development of new enrollment and exit forms for the National Service Trust for individuals enrolling in and exiting from Silver Scholar or Summer of Service positions. The Corporation estimates the burden associated with filling out a Silver Scholar or Summer of Service enrollment form to be 3 minutes and a Silver Scholar or Summer of Service

exit form to be 3 minutes. Additionally, § 2526.10 requires the program supervising the participant to certify that the participant met eligibility criteria and successfully completed the required term of service. The proposed change affects those programs who supervise the participants. The burden hour estimate associated with the current exit form reported under OMB Control Number 3045–0015 is 3 minutes. The Corporation does not expect the proposed changes to increase the burden for this collection.

Section 2528.10 expands the available uses of an education award to include use for current educational expenses incurred in enrolling in an educational institution or training establishment approved for educational benefits under the Montgomery G.I. Bill for offering programs of education, apprenticeship, or on-job training for which educational assistance may be provided by the Secretary of Veterans Affairs. Sections 2528.60–70 lay out the processes for requesting to use an award for this purpose. These proposed provisions affect individuals who choose to use education awards for this purpose, and the educational institutions or training establishments at which such individuals elect to use their awards. The burden hour estimate associated with the current voucher and payment request form reported under OMB Control Number 3045–0014 is 5 minutes. The Corporation does not expect the proposed additions to increase the burden for this collection.

Section 2529.10 expands the availability of payments on accrued interest to individuals who successfully complete terms of service in Silver Scholar positions. This affects those individuals who serve in Silver Scholar programs and elect to place qualified student loans in forbearance, and request accrued interest payments from the National Service Trust. The burden hour estimate associated with the current forbearance request form and interest accrual form, reported under OMB Control Numbers 3045–0030 and 3045–0053 are 1 minute and 10 minutes, respectively. The Corporation does not expect the proposed changes to increase the burdens for these collections.

Sections 2530.30 and 2530.85 set forth the processes for requesting to transfer an award, accepting a transferred award, and revoking a transferred award. This affects those individuals who choose to transfer their education awards and those individuals receiving awards via transfer. The Corporation estimates the burden associated with requesting to transfer an

award and accepting a transferred award to be 5 minutes, and the burden associated with revoking a transferred award to be 5 minutes.

#### List of Subjects

##### 45 CFR Part 2510

Grant programs—social programs, Volunteers.

##### 45 CFR Part 2522

Grants administration, Grant programs—social programs, Volunteers.

##### 45 CFR Part 2525

Grant programs—social programs, Student aid, Volunteers.

##### 45 CFR Part 2526

Education, Grant programs—social programs, Student aid, Volunteers.

##### 45 CFR Part 2527

Education, Grant programs—social programs, Student aid, Volunteers.

##### 45 CFR Part 2528

Education, Grant programs—social programs, Student aid, Volunteers.

##### 45 CFR Part 2529

Education, Grant programs—social programs, Student aid, Volunteers.

##### 45 CFR Part 2530

Education, Grant programs—social programs, Student aid, Volunteers.

##### 45 CFR Part 2531

Grant programs—social programs.

##### 45 CFR Part 2532

Grant programs—social programs, Volunteers.

##### 45 CFR Part 2533

Grants administration, Grant programs—social programs.

##### 45 CFR Part 2550

Grants administration, Grant programs—social programs.

##### 45 CFR Part 2551

Grants administration, Grant programs—social programs, Volunteers.

##### 45 CFR Part 2552

Grants administration, Grant programs—social programs, Volunteers.

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

## PART 2510—OVERALL PURPOSES AND DEFINITIONS

1. The authority citation for Part 2510 continues to read as follows:

**Authority:** 42 U.S.C. 12501 *et seq.*

2. Amend § 2510.20 by adding definitions for “Approved Silver Scholar position” and “Approved Summer of Service position” in alphabetical order, to read as follows:

### § 2510.20 Definitions

\* \* \* \* \*

*Approved Silver Scholar Position.* The term *approved Silver Scholar position* means a Silver Scholar position for which the Corporation has approved a Silver Scholar education award.

*Approved Summer of Service Position.* The term *approved Summer of Service position* means a Summer of Service position for which the Corporation has approved a Summer of Service education award.

\* \* \* \* \*

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

3. 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.

4. Amend § 2522.220 by:

- a. Revising the heading;
- b. Removing paragraph (b);
- c. Redesignating paragraphs (c) through (g) as (b) through (f), respectively; and
- d. Revising newly redesignated paragraph (b).

The revisions read as follows:

### § 2522.220 What are the required terms of service for AmeriCorps participants?

\* \* \* \* \*

(b) *Eligibility for subsequent term.* A participant will only be eligible to serve a subsequent term of service if that individual has received satisfactory performance review(s) for any previous term(s) of service in an approved AmeriCorps position, in accordance with the requirements of paragraph (d) of this section and § 2526.15. Mere eligibility for a second or further term of service in no way guarantees a participant selection or placement.

\* \* \* \* \*

5. Amend § 2522.230 by:

- a. Revising paragraphs (b)(6) and (b)(7); and
- b. Revising paragraph (e).

The revisions read as follows:

**§ 2522.230 Under what circumstances may AmeriCorps participants be released from completing a term of service, and what are the consequences?**

\* \* \* \* \*

(b) \* \* \*

(6) An individual's eligibility for a subsequent term of service in AmeriCorps will not be affected by release for cause from a prior term of service so long as the individual received a satisfactory end-of-term performance review as described in § 2522.220(d)(2) for the period served in the prior term.

(7) Except as provided in paragraph (e) of this section, a term of service from which an individual is released for cause counts as one of the terms of service described in § 2522.235 for which an individual may receive the benefits described in §§ 2522.240 through 2522.250.

\* \* \* \* \*

(e) *Release prior to serving 15 percent of a term of service.* If a participant is released for reasons other than misconduct prior to completing 15 percent of a term of service, the term will not be considered to be one of the terms of service described in § 2522.220(b) for which an individual may receive the benefits described in §§ 2522.240 through 2522.250.

6. Add a new § 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?**

(a) *General limitation.* An individual may receive the benefits described in §§ 2522.240 through 2522.250 for no more than four terms of service in an AmeriCorps State and National program, regardless of whether those terms were served on a full-, part-, or reduced part-time basis, consistent with the limitations in § 2526.50.

(b) *Early release.* Except as provided in paragraph (c) of this section, a term of service from which an individual is released for compelling personal circumstances or for cause counts as one of the terms of service for which an individual may receive the benefits described in § 2522.240 through § 2522.250.

(c) *Release prior to serving fifteen percent of a term.* If a person is released for reasons other than misconduct prior to completing fifteen percent of a term of service, the term will not be considered one of the terms of service for which an individual may receive the benefits described in §§ 2522.240 through 2522.250.

7. Amend § 2522.240 by:

a. Revising paragraph (a); and

b. Removing the reference to § 2522.220(g) in paragraph (c) and adding a reference to § 2522.220(f) in its place.

The revision will read as follows:

**§ 2522.240 What financial benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?**

(a) *AmeriCorps educational awards.* An individual serving in an approved AmeriCorps State and National position will receive an educational award from the National Service Trust upon successful completion of each of no more than four terms of service as defined in § 2522.220, consistent with the limitations in § 2526.50.

\* \* \* \* \*

§§ 2522.320, 2522.330, 2522.425, 2522.430, 2522.435, 2522.445, and 2522.448 [Removed and Reserved]

8. Remove and reserve §§ 2522.320, 2522.330, 2522.425, 2522.430, 2522.435, 2522.445, and 2522.448.

**PART 2525—NATIONAL SERVICE TRUST: PURPOSE AND DEFINITIONS**

9. The authority citation for Part 2525 is revised to read as follows:

**Authority:** 42 U.S.C. 12601–12606.

10. Amend § 2525.20 by:

a. Removing the definition for “approved school-to-work program”;

b. Revising the definitions for “education award” and “term of service”;

and

c. Adding definitions for “AmeriCorps education award,” “economically disadvantaged youth,” “Silver Scholar education award,” and “Summer of Service education award” in alphabetical order, to read as follows:

**§ 2525.20 [Amended]**

\* \* \* \* \*

*AmeriCorps education award.* For the purposes of this section, the term *AmeriCorps education award* means the financial assistance available under parts 2526 through 2528 of this chapter for which an individual in an approved AmeriCorps position may be eligible.

\* \* \* \* \*

*Economically disadvantaged youth.* For the purposes of this section, the phrase *economically disadvantaged youth* means a child who is eligible for a free lunch and breakfast under the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)).

*Education award.* For the purposes of this section, the term *education award* refers to the financial assistance available under parts 2526 through 2528 of this chapter, including AmeriCorps education awards, Silver Scholar

education awards, and Summer of Service education awards.

\* \* \* \* \*

*Silver Scholar education award.* For the purposes of this section, the term *Silver Scholar education award* means the financial assistance available under parts 2526 through 2528 of this chapter for which an individual in an approved Silver Scholar position may be eligible.

*Summer of Service education award.* For the purposes this section, the term *Summer of Service education award* means the financial assistance available under parts 2526 through 2528 of this chapter for which an individual in an approved Summer of Service position may be eligible.

*Term of service.* The term *term of service* means—

(1) For an individual serving in an approved AmeriCorps position, one of the terms of service specified in § 2522.220 of this chapter;

(2) For an individual serving in an approved Silver Scholar position, not less than 350 hours during a one-year period; and

(3) For an individual serving in an approved Summer of Service position, not less than 100 hours during the summer months.

**PART 2526—ELIGIBILITY FOR AN EDUCATION AWARD**

11. The authority citation for Part 2526 is revised to read as follows:

**Authority:** 42 U.S.C. 12601–12604, 12606.

12. Amend § 2526.10 by revising paragraph (a) to read as follows:

**§ 2526.10 Who is eligible to receive an education award from the National Service Trust?**

(a) *General.* An individual is eligible to receive an education award from the National Service Trust if the organization responsible for the individual's supervision in a national service program certifies that the individual—

(1) Met the applicable eligibility requirements for the approved AmeriCorps position, approved Silver Scholar position, or approved Summer of Service position, as appropriate, in which the individual served;

(2)(i) For an AmeriCorps education award, successfully completed the required term of service in the approved national service position;

(ii) For a partial AmeriCorps education award, completed at least 15 percent of the originally-approved term of service, and performed satisfactorily prior to being granted a release for compelling personal circumstances consistent with § 2522.230(a);

(iii) For a Summer of Service education award, successfully completed the required term of service in a Summer of Service position; or

(iv) For a Silver Scholar education award, successfully completed the required term of service in a Silver Scholar position; and

(3) Is a citizen, national, or lawful permanent resident alien of the United States.

\* \* \* \* \*

13. Add a new § 2526.15 to read as follows:

**§ 2526.15 Upon what basis may an organization responsible for the supervision of a national service participant certify that the individual successfully completed a term of service?**

(a) An organization responsible for the supervision of an individual serving in an AmeriCorps State and National position will determine whether an individual successfully completed a term of service based upon an end-of-term evaluation conducted pursuant to § 2522.220(d).

(b) An organization responsible for the supervision of an individual serving in a program other than AmeriCorps State and National will determine whether an individual successfully completed a term of service based upon an end-of-term evaluation that examines whether the individual:

(1) Completed the required number of service hours for the term of service;

(2) Satisfactorily performed on assignments, tasks, or projects; and

(3) Met any performance criteria as determined by the program and communicated to the member.

(c) A certification by the organization responsible for the supervision of an individual that the individual did or did not successfully complete a term of service will be deemed to incorporate an end-of-term evaluation.

14. Amend § 2526.20 by revising paragraph (a) to read as follows:

**§ 2526.20 Is an AmeriCorps participant who does not complete an originally-approved term of service eligible to receive a pro-rated education award?**

(a) *Compelling personal circumstances.* A participant in an approved AmeriCorps position who is released prior to completing an approved term of service for compelling personal circumstances in accordance with § 2522.230(a) is eligible for a pro-rated education award if the participant—

(1) Performed satisfactorily prior to being granted a release for compelling personal circumstances; and

(2) Completed at least 15 percent of the originally-approved term of service.

\* \* \* \* \*

15. Add a new § 2526.25 to read as follows:

**§ 2526.25 Is a participant in an approved Summer of Service position or approved Silver Scholar position who does not complete an approved term of service eligible to receive a pro-rated education award?**

No. An individual released for any reason prior to completing an approved term of service in a Silver Scholar or Summer of Service position is not eligible to receive a pro-rated award.

16. Revise § 2526.40 to read as follows:

**§ 2526.40 What is the time period during which an individual may use an education award?**

(a) *General requirement.* Unless the Corporation approves an extension in accordance with the requirements of paragraph (b) of this section—

(1) An individual may use an AmeriCorps education award or a Silver Scholar education award within seven years of the date on which the individual successfully completed a term of service in an approved AmeriCorps or Silver Scholar position;

(2) An individual may use a Summer of Service education award within ten years of the date on which the individual successfully completed a term of service in an approved Summer of Service position;

(3) A designated individual who receives a transferred education award in accordance with § 2530.10 may use the transferred education award within ten years of the date on which the individual who transferred the award successfully completed the term of service in an approved AmeriCorps or Silver Scholar position that is the basis of the award.

(b) *Extensions.* In order to receive an extension of the period of availability specified in paragraph (a) of this section for using an education award, an individual must apply to the Corporation for an extension prior to the end of that time period. The Corporation will grant an application for an extension under the following circumstances:

(1) If the Corporation determines that an individual was performing another term of service in an approved AmeriCorps, Summer of Service, or Silver Scholar position during the original period of availability, the Corporation will grant an extension for a time period that is equivalent to the time period during which the individual

was performing the other term of service.

(2) If the Corporation determines that an individual was unavoidably prevented from using the education award during the original period of availability, the Corporation will grant an extension for a period of time that the Corporation deems appropriate. An individual who is ineligible to use an education award as a result of the individual's conviction of the possession or sale of a controlled substance is not considered to be unavoidably prevented from using the education award for the purposes of this paragraph. In the case of a transferred award, an individual who is unable to use an education award as a result of being too young to enroll in an institution of higher education or other training establishment is not considered to be unavoidably prevented from using the education award.

17. Revise § 2526.50 to read as follows:

**§ 2526.50 Is there a limit on the total amount of education awards an individual may receive?**

(a) *General Limitation.* No individual may receive more than an amount equal to the aggregate value of two full-time education awards.

(b) *Calculation of the value of an education award.* For the purposes of this section, the value of an education award is equal to the actual amount of the education award received divided by the amount of a full-time education award in the year the AmeriCorps or Silver Scholar position to which the award is attributed was approved. Each award received will be considered to have a value between 0 and 1. Although the amount of a full-time award as defined in § 2527.10(a) may change, the value of a full-time award will always be equal to 1.

(c) *Calculation of aggregate value of awards received.* The aggregate value of awards received is equal to the sum of:

(1) The value of each education award received as a result of successful completion of an approved AmeriCorps position;

(2) The value of each partial education award received as a result of release from an approved AmeriCorps position for compelling personal circumstances;

(3) The value of each education award received as a result of successful completion of a term of service in an approved Silver Scholar position; and

(4) The value of any amount received as a transferred education award, except as provided in § 2530.60(c).

(d) *Determination of Receipt of Award.* For purposes of determining the aggregate value of education awards, an award is considered to be received at the time it becomes available for an individual's use.

18. Add a new § 2526.55 to read as follows:

**§ 2526.55 What is the impact of the aggregate value of education awards received on an individual's ability to enroll in subsequent terms of service?**

No individual may enroll in a subsequent term of service if successful completion of that term of service would result in receipt of an education award the value of which, when added to the aggregate value of awards previously received, would be greater than 2.

19. Revise § 2526.60 to read as follows:

**§ 2526.60 May an individual receive an education award and related interest benefits from the National Service Trust as well as other loan cancellation benefits for the same service?**

An individual may not receive an education award and related interest benefits from the National Service Trust for a term of service and have that same service credited toward repayment, discharge, or cancellation of other student loans, except as provided under 31 CFR 685.219.

20. Add a new § 2526.70 to read as follows:

**§ 2526.70 What are the effects of an erroneous certification of successful completion of a term of service?**

(a) If the Corporation determines that the certification made by a national service program under § 2526.10(a)(2)(i), (iii), or (iv) is erroneous, the Corporation shall assess against the national service program a charge for the amount of any associated payment or potential payment from the National Service Trust, taking into consideration the full facts and circumstances surrounding the erroneous or incorrect certification.

(b) Nothing in this section shall prohibit the Corporation from taking any action authorized by law based upon any certification that is knowingly made in a false, materially misleading, or fraudulent manner.

**PART 2527—DETERMINING THE AMOUNT OF AN EDUCATION AWARD**

21. The authority citation for Part 2527 is revised to read as follows:

**Authority:** 42 U.S.C. 12601–12606.

22. Amend § 2527.10 by:

- a. Revising the heading;
- b. Revising paragraphs (a), (b), and (c); and

c. Adding new paragraphs (e) and (f). The revisions and additions read as follows:

**§ 2527.10 What is the amount of an education award?**

(a) *Full-time term of service.* The education award for a full-time term of service in an approved AmeriCorps position of at least 1,700 hours will be equal to the maximum amount of a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) that a student eligible for such grant may receive in the aggregate for the award year in which the term of service is approved by the Corporation.

(b) *Part-time term of service.* The education award for a part-time term of service in an approved AmeriCorps position of at least 900 hours is equal to one half of the amount of an education award amount for a full-time term of service described in paragraph (a) of this section.

(c) *Reduced part-time term of service.* The education award for a reduced part-time term of service in an approved AmeriCorps position of fewer than 900 hours is an amount equal to the product of:

(1) The number of hours of service required to complete the reduced part-time term of service divided by 900; and

(2) The amount of the education award for a part-time term of service described in paragraph (b) of this section.

\* \* \* \* \*

(e) *Summer of Service Education Award.* (1) *In general.* The education award for a term of service in an approved Summer of Service position for at least 100 hours is \$500.

(2) *Exception.* The Corporation may authorize a Summer of Service education award of \$750 if the participant is economically disadvantaged, as certified by the school operating the Summer of Service program.

(f) *Silver Scholar Education Award.* The education award for a term of service in an approved Silver Scholar position for at least 350 hours is \$1,000.

**PART 2528—USING AN EDUCATION AWARD**

23. The authority citation for Part 2528 is revised to read as follows:

**Authority:** 42 U.S.C. 12601–12606.

24. Revise § 2528.10(a)(3) to read as follows:

**§ 2528.10 [Amended]**

(a) \* \* \*

(3) To pay expenses incurred in enrolling in an educational institution

or training establishment approved for educational benefits under the Montgomery G.I. Bill (38 U.S.C. 3670 *et seq.*) for offering programs of education, apprenticeship, or on-job training for which educational assistance may be provided by the Secretary of Veterans Affairs, in accordance with §§ 2528.60, 2528.70, and 2529.80.

25. Revise § 2528.30(a)(2)(vi)(A) and (B) to read as follows:

**§ 2528.30 [Amended]**

(a) \* \* \*

(2) \* \* \*

(vi) \* \* \*

(A) The individual's cost of attendance and other educational expenses; and

(B) The individual's estimated student financial assistance for that period under part A of title IV of the Higher Education Act (20 U.S.C. 1070 *et seq.*).

\* \* \* \* \*

26. Revise § 2528.40(a) and (b) to read as follows:

**§ 2528.40 Is there a limit on the amount of an individual's education award that the Corporation will disburse to an institution of higher education for a given period of enrollment?**

\* \* \* \* \*

(a) The individual's cost of attendance and other educational expenses, determined by the institution of higher education in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1987ll); and

(b) The individual's estimated financial assistance for that period under part A of title IV of the Higher Education Act.

27. Revise § 2528.60 to read as follows:

**§ 2528.60 Who may use the education award to pay expenses incurred in an educational institution or training establishment approved for educational benefits under the Montgomery G.I. Bill?**

To use the education award to pay expenses incurred in enrolling at an educational institution or training establishment in a program of education approved by the Secretary of Veterans Affairs (38 U.S.C. 3670 *et seq.*), you must have received an education award for successfully completing a term in an approved AmeriCorps position, approved Summer of Service position, or approved Silver Scholar position, in which you enrolled on or after October 1, 2009.

28. Revise § 2528.70 to read as follows:

**§ 2528.70 What steps are necessary to use an education award to pay expenses incurred in enrolling at an educational institution or training establishment in a program of education approved by the Secretary of Veterans Affairs?**

(a) *Required Information.* Before disbursing an amount from an education award to pay for expenses incurred in enrolling at an educational institution or training establishment in a program of education approved by the Secretary of Veterans Affairs (38 U.S.C. 3670 *et seq.*), the Corporation must receive—

- (1) An individual's written authorization and request for a specific payment amount;
- (2) Verification from the individual that the individual meets the criteria in § 2528.60; and
- (3) Information from the educational institution or training establishment as requested by the Corporation, including verification that—

(i) The amount requested will be used to pay all or part of the individual's expenses attributable to a course, program of education, apprenticeship, or job training offered by the institution or establishment;

(ii) The course(s) or program(s) for which the individual is requesting to use the education award has been and is currently approved by the State approving agency for the State where the institution or establishment is located, or by the Secretary of Veterans Affairs; and

(iii) If an individual who has used an education award withdraws or otherwise fails to complete the period of enrollment for which the education award was provided, the institution or establishment will ensure a pro-rata refund to the Corporation of the unused portion of the education award.

(b) *Payment.* When the Corporation receives the information required under paragraph (a) of this section, the Corporation will pay the institution or establishment and notify the individual of the payment.

29. Add a new § 2528.80 to read as follows:

**§ 2528.80 What happens if an individual for whom the Corporation has disbursed education award funds withdraws or fails to complete the period of enrollment at an educational institution or training establishment in a program of education approved by the Secretary of Veterans Affairs?**

(a) If an individual for whom the Corporation has disbursed education award funds withdraws or otherwise fails to complete a period of enrollment, the approved educational institution or training establishment that receives a disbursement of education award funds

from the Corporation must provide a pro-rata refund to the Corporation of the unused portion of the education award.

(b) The Corporation will credit any refund received for an individual under paragraph (a) of this section to the individual's education award allocation in the National Service Trust.

**PART 2529—PAYMENT OF ACCRUED INTEREST**

30. The authority citation of Part 2529 is revised to read as follows:

**Authority:** 42 U.S.C. 12601–12606.

31. Amend § 2529.10 by revising the heading and paragraph (a)(1) to read as follows:

**§ 2529.10 Under what circumstances will the Corporation pay interest that accrues on qualified student loans during an individual's term of service in an approved AmeriCorps position or approved Silver Scholar position?**

(a) \* \* \*

(1) The individual successfully completes a term of service in an approved AmeriCorps position or approved Silver Scholar position; and

\* \* \* \* \*

**PARTS 2530, 2531, 2532, AND 2533 [REDESIGNATED AS PARTS 2531, 2532, 2533, AND 2534]**

32. Redesignate parts 2530, 2531, 2532, and 2533 as parts 2531, 2532, 2533 and 2534, respectively

33. Add a new Part 2530 to read as follows:

**PART 2530—TRANSFER OF EDUCATION AWARDS**

Sec.

2530.10 Under what circumstances may an individual transfer an education award?

2530.20 For what purposes may a transferred award be used?

2530.30 What steps are necessary to transfer an education award?

2530.40 Is there a limit on the number of individuals one may designate to receive a transferred award?

2530.50 Is there a limit on the amount of transferred awards a designated individual may receive?

2530.60 What is the impact of transferring or receiving a transferred education award on an individual's eligibility to receive additional education awards?

2530.70 Is a designated individual required to accept a transferred education award?

2530.80 Is an award revocable once transferred?

2530.90 Is a designated individual eligible for the payment of accrued interest under part 2529?

**Authority:** 42 U.S.C. 12601–12606.

**§ 2530.10 Under what circumstances may an individual transfer an education award?**

An individual may transfer an education award to the individual's child, grandchild, or foster child if—

(a) The individual enrolled in an approved AmeriCorps State and National position or approved Silver Scholar position on or after October 1, 2009;

(b) The individual was age 55 or older on the day the individual commenced the term of service in an approved AmeriCorps State and National position or in approved Silver Scholar position;

(c) The individual successfully completed a term of service in an approved AmeriCorps State and National position or an approved Silver Scholar position;

(d) The award the individual is requesting to transfer has not expired, consistent with the period of availability set forth in § 2526.40(a);

(e) The individual designated to receive the transferred award is the transferring individual's child, grandchild, or foster child; and

(f) The individual designated to receive the transferred award is a citizen, national, or lawful permanent resident alien of the United States.

**§ 2530.20 For what purposes may a transferred award be used?**

A transferred award may be used by a designated individual to repay qualified student loans or to pay current educational expenses at an institution of higher education, as described in § 2528.10.

**§ 2530.30 What steps are necessary to transfer an education award?**

(a) *Request for Transfer.* Before transferring an award to a designated individual, the Corporation must receive a request from the transferring individual, including—

(1) The individual's written authorization to transfer the award, the year in which the award was earned, and the specific amount of the award to be transferred;

(2) Identifying information for the individual designated to receive the transferred award;

(3) A certification that the transferring individual meets the requirements of § 2530.10; and

(4) A certification that the designated individual is the child, grandchild, or foster child of the transferring individual.

(b) *Notification to Designated Individual.* Upon receipt of a request including all required information listed in paragraph (a) of this section, the Corporation will contact the designated

individual to notify the individual of the proposed transfer, confirm the individual's identity, and give the individual the opportunity to accept or reject the transferred award.

(c) *Acceptance by Designated Individual.* To accept an award, a designated individual must certify that the designated individual is the child, grandchild, or foster child of the transferring individual and that the designated individual is a citizen, national, or lawful permanent resident alien of the United States. Upon receipt of the designated individual's acceptance, the Corporation will create an account in the National Service Trust for the designated individual, if an account does not already exist, and the accepted amount will be deducted from the transferring individual's account and credited to the designated individual's account.

(d) *Timing of transfer.* The Corporation must receive the request from the transferring individual prior to the date the award expires.

**§ 2530.40 Is there a limit on the number of individuals one may designate to receive a transferred award?**

(a) *General Limitation.* For each award an individual earns as a result of successfully completing a single term of service, an individual may transfer all or part of the award to a single designated individual. An individual may not transfer a single award attributable to successful completion of a single term of service to more than one designated individual.

(b) *Re-transfer.* If a designated individual rejects a transferred award in full, or the Corporation determines that an award was revoked for good cause in accordance with § 2530.80(c), the transferring individual may designate another individual to receive the transferred award.

**§ 2530.50 Is there a limit on the amount of transferred awards a designated individual may receive?**

Consistent with § 2526.50, no individual may receive more than an amount equal to the value of two full-time education awards. If the sum of the value of the requested transfer plus the aggregate value of educational awards a designated individual has previously received would exceed the aggregate value of two full-time education awards, as determined pursuant to § 2526.50(b), the designated individual will be deemed to have rejected that portion of the award that would result in the excess. If a designated individual has already received the aggregate value of two full-time education awards, the

individual may not receive a transferred award, and the designated individual will be deemed to have rejected the award in full.

**§ 2530.60 What is the impact of transferring or receiving a transferred education award on an individual's eligibility to receive additional education awards?**

(a) *Impact on Transferring Individual.* Pursuant to § 2526.50, an award is considered to be received at the time it becomes available for an individual's use. Transferring all or part of an award does not reduce the aggregate value of education awards the transferring individual is considered to have received.

(b) *Impact on Designated Individual.* For the purposes of determining the value of the transferred education award under § 2526.50, a designated individual will be considered to have received a value equal to the amount accepted divided by the amount of a full-time award in the year the transferring individual's position was approved.

(c) *Result of revocation on award value.* If the transferring individual revokes all or part of a transferred education award, the value of the education award considered to have been received by the designated individual for purposes of § 2526.50 will be reduced accordingly.

**§ 2530.70 Is a designated individual required to accept a transferred education award?**

(a) *General Rule.* A designated individual is not required to accept a transferred education award, and may reject an award in whole or in part.

(b) *Result of rejection in full.* If the designated individual rejects a transferred award in whole, the amount is credited to the transferring individual's account in the National Service Trust, and may be transferred to another individual, or may be used by the transferring individual for any of the purposes listed in § 2528.10, consistent with the original time period of availability set forth in § 2526.40(a).

(c) *Result of rejection in part.* If the designated individual rejects a transferred award in part, the rejected portion is credited to the transferring individual's account in the National Service Trust, and may be used by the transferring individual's for any of the purposes listed in § 2528.10, consistent with the original time period of availability set forth in § 2526.40(a). An individual may not re-transfer the rejected portion of the award to another individual.

**§ 2530.80 Is an award revocable once transferred?**

(a) *Revocation.* An individual may revoke a transferred education award at any time and for any reason prior to the award's use by the designated individual.

(b) *Use of Award.* Upon revocation, the amount revoked will be deducted from the designated individual's account and credited to the transferring individual's account. The transferring individual may use the revoked transferred education award for any of the purposes described in § 2528.10, consistent with the original time period of availability set forth in § 2526.40(a).

(c) *Re-transfer.* Generally, an individual may not re-transfer an award to another individual after revoking the same award from the original designated individual. The Corporation may approve re-transfer of an award for good cause, including cases in which the original designated individual was unavoidably prevented from using the award, as demonstrated by the individual transferring the award.

**§ 2530.85 What steps are necessary to revoke an award?**

(a) *Request for revocation.* Before revoking an award from a designated individual, the Corporation must receive a request from the transferring individual, including—

- (1) The individual's written authorization to revoke the award;
- (2) The year in which the award was earned;
- (3) The specific amount to be revoked; and
- (4) The identity of the designated individual.

(b) *Credit to transferring individual.* Upon receipt of a request including all required information listed in paragraph (a) of this section, the Corporation will deduct the amount specified in the transferring individual's request from the designated individual's account and credit the amount to the account of the transferring individual, except as provided in paragraph (c) of this section. The Corporation will notify the transferring individual the amount revoked.

(c) *Used awards.* The Corporation will only revoke that portion of the transferred award that has not been used by the designated individual. If the designated individual has used the entire transferred amount prior to the date the Corporation receives the revocation request, no amount will be returned to the transferring individual. An amount is considered to be used when it is disbursed from the National

Service Trust, not when a request is received to use an award.

(c) *Notification to designated individual.* The Corporation will notify the designated individual of the amount being revoked as of the date of the Corporation's receipt of the revocation request.

(d) *Timing of revocation.* The Corporation must receive the request to revoke the award from the transferring individual prior to the award's expiration ten years from the date the award was originally earned.

**§ 2530.90 Is a designated individual eligible for the payment of accrued interest under part 2529?**

No, an individual must have successfully completed a term of service in an approved AmeriCorps position or Silver Scholar position to be eligible for the payment of accrued interest under Part 2529.

**PART 2550—REQUIREMENTS AND GENERAL PROVISIONS FOR STATE COMMISSIONS AND ALTERNATIVE ADMINISTRATIVE ENTITIES**

34. The authority citation for Part 2550 continues to read as follows:

**Authority:** 42 U.S.C. 12638.

35. Amend § 2550.80 by revising paragraph (b) to read as follows:

**§ 2550.80 [Amended]**

\* \* \* \* \*

(b) *Selection of subtitle C programs and preparation of application to the Corporation.* Each State must:

(1) Prepare an application to the Corporation to receive funding or education awards for national service programs operating in and selected by the State.

(2) Administer a competitive process to select national service programs for funding. The State is not required to select programs for funding prior to

submission of the application described in paragraph (b)(1) of this section.

\* \* \* \* \*

**PART 2551—SENIOR COMPANION PROGRAM**

36. The authority citation for Part 2551 continues to read as follows:

**Authority:** 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

37. Amend § 2551.92 by revising paragraph (e) to read as follows:

**§ 2551.92 [Amended]**

\* \* \* \* \*

(e) *How are Senior Companion cost reimbursements budgeted?* (1) Except as provided in (e)(2) of this section, the total of cost reimbursements for Senior Companions, including stipends, insurance, transportation, meals, physical examinations, and recognition, shall be a sum equal to at least 80 percent of the amount of the Federal share of the grant award. Federal, required non-Federal, and excess non-Federal resources can be used to make up the amount allotted for cost reimbursements.

(2) The Corporation may allow exceptions to the 80 percent cost reimbursement requirement in cases of demonstrated need such as:

(i) Initial difficulties in the development of local funding sources during the first three years of operations;

(ii) An economic downturn, the occurrence of a natural disaster, or similar events in the service area that severely restrict or reduce sources of local funding support; or

(iii) The unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years.

\* \* \* \* \*

**PART 2552—FOSTER GRANDPARENT PROGRAM**

38. The authority citation for Part 2552 continues to read as follows:

**Authority:** 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

39. Amend § 2552.92 by revising paragraph (e) to read as follows:

**§ 2552.92 What are project funding requirements?**

\* \* \* \* \*

(e) *How are Foster Grandparent cost reimbursements budgeted?* (1) Except as provided in (e)(2) of this section, the total of cost reimbursements for Foster Grandparents, including stipends, insurance, transportation, meals, physical examinations, and recognition, shall be a sum equal to at least 80 percent of the amount of the Federal share of the grant award. Federal, required non-Federal, and excess non-Federal resources can be used to make up the amount allotted for cost reimbursements.

(2) The Corporation may allow exceptions to the 80 percent cost reimbursement requirement in cases of demonstrated need such as:

(i) Initial difficulties in the development of local funding sources during the first three years of operations; or

(ii) An economic downturn, the occurrence of a natural disaster, or similar events in the service area that severely restrict or reduce sources of local funding support; or

(iii) The unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years.

Dated: February 17, 2010.

**Frank R. Trinity,**  
*General Counsel.*

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