AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

clearinghouse to be established pursuant to part 2518 of this chapter is eligible to apply for a grant under this section. In addition, public or private nonprofit organizations are eligible to apply for clearinghouse grants.

(2) *Function.* A Clearinghouse may perform the following activities: (i) Assist entities carrying out State or local community service programs with needs assessments and planning;

(ii) Conduct research and evaluations concerning community service;

(iii) Provide leadership development and training to State and local community service program administrators, supervisors, and participants; and provide training to persons who can provide such leadership development and training;

(iv) Facilitate communication among entities carrying out community service programs and participants;

(v) Provide information, curriculum materials, and technical assistance relating to planning and operation of community service programs, to States and local entities eligible to receive funds under this chapter;

(vi) Gather and disseminate information on successful community service programs, components of such successful programs, innovative youth skills curriculum, and community service projects;

(vii) Coordinate the activities of the clearinghouse with appropriate entities to avoid duplication of effort;

(viii) Make recommendations to State and local entities on quality controls to improve the delivery of community service programs and on changes in the programs under this chapter; and

(ix) Carry out such other activities as the Chief Executive Officer determines to be appropriate.

(o) *Assistance for Head Start.* The Corporation may make grants to, and enter into contracts and cooperative agreements with, public or nonprofit private agencies and organizations that receive grants or contracts under the Foster Grandparent Program (part B of title II of the Domestic Volunteer Service Act of 1973 (29 U.S.C. 5011 et seq.)), for projects of the type described in section 211(a) of such Act (29 U.S.C. 5011) operating under memoranda of agreement with the ACTION Agency, for the purpose of increasing the number of low-income individuals who provide services under such program to children who participate in Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.).

(p) *Other assistance.* The Corporation may support other activities that are consistent with the purposes described in part 2530 of this chapter.

[59 FR 13807, Mar. 23, 1994]

PART 2533—SPECIAL ACTIVITIES

Sec.
2533.10 National service fellowships.
2533.20 Presidential awards for service.

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

§ 2533.10 National service fellowships.

The Corporation may award national service fellowships on a competitive basis. Application procedures, selection criteria, timing and other requirements will be announced in the FEDERAL REGISTER.

[59 FR 13808, Mar. 23, 1994]

§ 2533.20 Presidential awards for service.

The President, acting through the Corporation, may make Presidential awards for service to individuals providing significant service, and to outstanding programs. Information about recipients of such awards will be widely disseminated. The President may provide such awards to any deserving individual or program, regardless of whether the individual is serving in a program authorized by this chapter or whether the program is itself authorized by this chapter. In no instance, however, may the award be a cash award.

[59 FR 13808, Mar. 23, 1994]

PART 2540—GENERAL ADMINISTRATIVE PROVISIONS

Subpart A—Requirements Concerning the Distribution and Use of Corporation Assistance

Sec.
2540.100 What restrictions govern the use of Corporation assistance?

2540.110 Limitation on use of Corporation funds for administrative costs.

Subpart B—Requirements Directly Affecting the Selection and Treatment of Participants

2540.200 Under what circumstances may participants be engaged?
2540.210 What provisions exist to ensure that Corporation-supported programs do not discriminate in the selection of participants and staff?
2540.220 Under what circumstances and subject to what conditions are participants in Corporation-assisted projects eligible for family and medical leave?
2540.230 What grievance procedures must recipients of Corporation assistance establish?

Subpart C—Other Requirements for Recipients of Corporation Assistance

2540.300 What must be included in annual State reports to the Corporation?
2540.310 Must programs that receive Corporation assistance establish standards of conduct?
2540.320 How are participant benefits treated?

Subpart D—Suspension and Termination of Corporation Assistance

2540.400 Under what circumstances will the Corporation suspend or terminate a grant or contract?

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

SOURCE: 59 FR 13808, Mar. 23, 1994, unless otherwise noted.

Subpart A—Requirements Concerning the Distribution and Use of Corporation Assistance

§2540.100 What restrictions govern the use of Corporation assistance?

(a) *Supplantation.* Corporation assistance may not be used to replace State and local public funds that had been used to support programs of the type eligible to receive Corporation support. For any given program, this condition will be satisfied if the aggregate non-Federal public expenditure for that program in the fiscal year that support is to be provided is not less than the previous fiscal year.

(b) *Religious use.* Corporation assistance may not be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(c) *Political activity.* Corporation assistance may not be used by program participants or staff to assist, promote, or deter union organizing; or finance, directly or indirectly, any activity designed to influence the outcome of a Federal, State or local election to public office.

(d) *Contracts or collective bargaining agreements.* Corporation assistance may not be used to impair existing contracts for services or collective bargaining agreements.

(e) *Nonduplication.* Corporation assistance may not be used to duplicate an activity that is already available in the locality of a program. And, unless the requirements of paragraph (f) of this section are met, Corporation assistance will not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency in which such entity resides.

(f) *Nondisplacement.* (1) An employer may not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program receiving Corporation assistance.

(2) A service opportunity will not be created under this chapter that will infringe in any manner on the promotional opportunity of an employed individual.

(3) A participant in a program receiving Corporation assistance may not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.

(4) A participant in any program receiving assistance under this chapter may not perform any services or duties, or engage in activities, that—

(i) Will supplant the hiring of employed workers; or

(ii) Are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures.

(5) A participant in any program receiving assistance under this chapter may not perform services or duties

that have been performed by or were assigned to any—

(i) Presently employed worker;

(ii) Employee who recently resigned or was discharged;

(iii) Employee who is subject to a reduction in force or who has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;

(iv) Employee who is on leave (terminal, temporary, vacation, emergency, or sick); or

(v) Employee who is on strike or who is being locked out.

§ 2540.110 Limitation on use of Corporation funds for administrative costs.

Not more than five percent of the amount of assistance provided to the original recipient of any grant or any transfer of assistance from the Corporation in any fiscal year may be used to pay for administrative costs incurred by—

(a) The original recipient of assistance; and

(b) Any subgrantee of that recipient.

Subpart B—Requirements Directly Affecting the Selection and Treatment of Participants

§ 2540.200 Under what circumstances may participants be engaged?

A State may not engage a participant to serve in any program that receives Corporation assistance unless and until amounts have been appropriated under section 501 of the Act (42 U.S.C. 12681) for the provision of AmeriCorps educational awards and for the payment of other necessary expenses and costs associated with such participant.

§ 2540.210 What provisions exist to ensure that Corporation-supported programs do not discriminate in the selection of participants and staff?

(a) An individual with responsibility for the operation of a project that receives Corporation assistance must not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

(b) Any Corporation assistance constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and constitutes Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

(c) An individual with responsibility for the operation of a project that receives Corporation assistance may not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with Corporation funds. This provision does not apply to the employment (with Corporation assistance) of any staff member of a Corporation-supported project who was employed with the organization operating the project on the date the Corporation grant was awarded.

§ 2540.220 Under what circumstances and subject to what conditions are participants in Corporation-assisted programs eligible for family and medical leave?

(a) *Participants in State, local, or private nonprofits programs.* A participant in a State, local, or private nonprofit program receiving support from the Corporation is considered an eligible employee of the program's project sponsor under the Family and Medical Leave Act of 1993 (29 CFR part 825) if—

(1) The participant has served for at least 12 months and 1,250 hours during the year preceding the start of the leave; and

(2) The program's project sponsors engages in commerce or any industry or activity affecting commerce, and employs at least 50 employees for each working day during 20 or more calendar workweeks in the current or preceding calendar year.

(b) *Participants in Federal programs.* Participants in Federal programs operated by the Corporation or by another

Federal agency will be considered Federal employees for the purposes of the Family and Medical Leave Act if the participants have completed 12 months of service and the project sponsor is an employing agency as defined in 5 U.S.C 6381 *et seq.*; such participants therefore will be eligible for the same family and medical leave benefits afforded to such Federal employees.

(c) *General terms and conditions.* Participants that qualify as eligible employees under paragraphs (a) or (b) of this section are entitled to take up to 12 weeks of unpaid leave during a 12 month period for any of the following reasons (in the cases of both paragraphs (c)(1) and (2) of this section the entitlement to leave expires 12 months after the birth or placement of such child): (1) The birth of a child to a participant;

(2) The placement of a child with a participant for adoption or foster care;

(3) The serious illness of a participant's spouse, child or parent; or

(4) A participants serious health condition that makes that participant unable to perform his or her essential service duties (a serious health condition is an illness or condition that requires either inpatient care or continuing treatment by a health care provider).

(d) *Intermittent leave or reduced service.* The program, serving as the project sponsor, may allow a participant to take intermittent leave or reduce his or her service hours due to the birth of or placement of a child for adoption or foster care. The participant may also take leave to care for a seriously ill immediate family member or may take leave due to his or her own serious illness whenever it is medically necessary.

(e) *Alternate placement.* If a participant requests intermittent leave or a reduced service hours due to a serious illness or a family member's sickness, and the need for leave is foreseeable based on planned medical treatment, the program, or project sponsor may temporarily transfer the participant to an alternative service position if the participant: (1) Is qualified for the position; and

(2) Receives the same benefits such as stipend or living allowance and the position better accommodates the participants recurring periods of leave.

(f) *Certification of cause.* A program, or project sponsor may require that the participant support a leave request with a certification from the health care provider of the participant or the participant's family member. If a program sponsor requests a certification, the participant must provide it in a timely manner.

(g) *Continuance of coverage.* (1) If a State, local or private program provides for health insurance for the full-time participant, the sponsor must continue to provide comparable health coverage at the same level and conditions that coverage would have been provided for the duration of the participant's leave.

(2) If the Federal program provides health insurance coverage for the full-time participant, the sponsor must also continue to provide the same health care coverage for the duration of the participant's leave.

(h) *Failure to return.* If the participant fails to return to the program at the end of leave for any reason other than continuation, recurrence or onset of a serious health condition or other circumstances beyond his or her control, the program may recover the premium that he or she paid during any period of unpaid leave.

(i) *Applicability to term of service.* Any absence, due to family and medical leave, will not be counted towards the participant's term of service.

§2540.230 What grievance procedures must recipients of Corporation assistance establish?

State and local applicants that receive assistance from the Corporation must establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance from the Corporation. A grievance procedure may include dispute resolution programs such as mediation, facilitation, assisted negotiation and neutral evaluation. If the grievance alleges fraud or criminal activity, it must immediately be brought to the attention of the Corporation's inspector general.

(a) *Alternative dispute resolution.* (1) The aggrieved party may seek resolution through alternative means of dispute resolution such as mediation or facilitation. Dispute resolution proceedings must be initiated within 45 calendar days from the date of the alleged occurrence. At the initial session of the dispute resolution proceedings, the party must be advised in writing of his or her right to file a grievance and right to arbitration. If the matter is resolved, and a written agreement is reached, the party will agree to forego filing a grievance in the matter under consideration.

(2) If mediation, facilitation, or other dispute resolution processes are selected, the process must be aided by a neutral party who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the matter through a mutually achieved and acceptable written agreement. The neutral party may not compel a resolution. Proceedings before the neutral party must be informal, and the rules of evidence will not apply. With the exception of a written and agreed upon dispute resolution agreement, the proceeding must be confidential.

(b) *Grievance procedure for unresolved complaints.* If the matter is not resolved within 30 calendar days from the date the informal dispute resolution process began, the neutral party must again inform the aggrieving party of his or her right to file a formal grievance. In the event an aggrieving party files a grievance, the neutral may not participate in the formal complaint process. In addition, no communication or proceedings of the informal dispute resolution process may be referred to or introduced into evidence at the grievance and arbitration hearing. Any decision by the neutral party is advisory and is not binding unless both parties agree.

(c) *Time limitations.* Except for a grievance that alleges fraud or criminal activity, a grievance must be made no later than one year after the date of the alleged occurrence. If a hearing is held on a grievance, it must be conducted no later than 30 calendar days after the filing of such grievance. A decision on any such grievance must be made no later than 60 calendar days after the filing of the grievance.

(d) *Arbitration*—(1) *Arbitrator*—(i) *Joint selection by parties.* If there is an adverse decision against the party who filed the grievance, or 60 calendar days after the filing of a grievance no decision has been reached, the filing party may submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

(ii) *Appointment by Corporation.* If the parties cannot agree on an arbitrator within 15 calendar days after receiving a request from one of the grievance parties, the Corporations Chief Executive Officer will appoint an arbitrator from a list of qualified arbitrators.

(2) *Time Limits*—(i) *Proceedings.* An arbitration proceeding must be held no later than 45 calendar days after the request for arbitration, or, if the arbitrator is appointed by the Chief Executive Officer, the proceeding must occur no later than 30 calendar days after the arbitrator's appointment.

(ii) *Decision.* A decision must be made by the arbitrator no later than 30 calendar days after the date the arbitration proceeding begins.

(3) *The cost.* The cost of the arbitration proceeding must be divided evenly between the parties to the arbitration. If, however, a participant, labor organization, or other interested individual prevails under a binding arbitration proceeding, the State or local applicant that is a party to the grievance must pay the total cost of the proceeding and the attorney's fees of the prevailing party.

(e) *Suspension of placement.* If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this chapter, such placement must not be made unless the placement is consistent with the resolution of the grievance.

(f) *Remedies.* Remedies for a grievance filed under a procedure established by a recipient of Corporation assistance may include—

(1) Prohibition of a placement of a participant; and

(2) In grievance cases where there is a violation of nonduplication or nondisplacement requirements and the employer of the displaced employee is the recipient of Corporation assistance—

(i) Reinstatement of the employee to the position he or she held prior to the displacement;

(ii) Payment of lost wages and benefits;

(iii) Re-establishment of other relevant terms, conditions and privileges of employment; and

(iv) Any other equitable relief that is necessary to correct any violation of the nonduplication or nondisplacement requirements or to make the displaced employee whole.

(g) *Suspension or termination of assistance.* The Corporation may suspend or terminate payments for assistance under this chapter.

(h) *Effect of noncompliance with arbitration.* A suit to enforce arbitration awards may be brought in any Federal district court having jurisdiction over the parties without regard to the amount in controversy or the parties' citizenship.

Subpart C—Other Requirements for Recipients of Corporation Assistance

§2540.300 What must be included in annual State reports to the Corporation?

(a) *In general.* Each State receiving assistance under this title must prepare and submit, to the Corporation, an annual report concerning the use of assistance provided under this chapter and the status of the national and community service programs in the State that receive assistance under this chapter. A State's annual report must include information that demonstrates the State's compliance with the requirements of this chapter.

(b) *Local grantees.* Each State may require local grantees that receive assistance under this chapter to supply such information to the State as is necessary to enable the State to complete the report required under paragraph (a) of this section, including a comparison of actual accomplishments with the goals established for the program, the number of participants in the program, the number of service hours generated, and the existence of any problems, delays or adverse conditions that have affected or will affect the attainment of program goals.

(c) *Availability of report.* Reports submitted under paragraph (a) of this section must be made available to the public on request.

§2540.310 Must programs that receive Corporation assistance establish standards of conduct?

Yes. Programs that receive assistance under this title must establish and stringently enforce standards of conduct at the program site to promote proper moral and disciplinary conditions.

§2540.320 How are participant benefits treated?

Section 142(b) of the Job Training Partnership Act (29 U.S.C. 1552(b)) shall apply to the programs conducted under this chapter as if such programs were conducted under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*).

Subpart D—Suspension and Termination of Corporation Assistance

§2540.400 Under what circumstances will the Corporation suspend or terminate a grant or contract?

(a) *Suspension of a grant or contract.* In emergency situations, the Corporation may suspend a grant or contract for not more than calendar 30 days. Examples of such situations may include, but are not limited to: (1) Serious risk to persons or property;

(2) Violations of Federal, State or local criminal statutes; and

(3) Material violation(s) of the grant or contract that are sufficiently serious that they outweigh the general policy in favor of advance notice and opportunity to show cause.

(b) *Termination of a grant or contract.* The Corporation may terminate or revoke assistance for failure to comply with applicable terms and conditions of this chapter. However, the Corporation must provide the recipient reasonable notice and opportunity for a full and fair hearing, subject to the following conditions: (1) The Corporation will notify a recipient of assistance by letter or telegram that the Corporation intends to terminate or revoke assistance, either in whole or in part, unless the recipient shows good cause why

such assistance should not be terminated or revoked. In this communication, the grounds and the effective date for the proposed termination or revocation will be described. The recipient will be given at least 7 calendar days to submit written material in opposition to the proposed action.

(2) The recipient may request a hearing on a proposed termination or revocation. Providing five days notice to the recipient, the Corporation may authorize the conduct of a hearing or other meetings at a location convenient to the recipient to consider the proposed suspension or termination. A transcript or recording must be made of a hearing conducted under this section and be available for inspection by any individual.

PART 2541—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Subpart A—General

Sec.
2541.10 Purpose and scope of this part.
2541.20 Scope of subpart.
2541.30 Definitions.
2541.40 Applicability.
2541.50 Effect on other issuances.
2541.60 Additions and exceptions.

Subpart B—Pre-Award Requirements

2541.100 Forms for applying for grants.
2541.110 State plans.
2541.120 Special grant or subgrant conditions for ''high-risk'' grantees.

Subpart C—Post Award Requirements

2541.200 Standards for financial management systems.
2541.210 Payment.
2541.220 Allowable costs.
2541.230 Period of availability of funds.
2541.240 Matching or cost sharing.
2541.250 Program income.
2541.260 Non-Federal audit.

Subpart D—Changes, Property and Subawards

2541.300 Changes.
2541.310 Real property.
2541.320 Equipment.
2541.330 Supplies.
2541.340 Copyrights.
2541.350 Subawards to debarred and suspended parties.
2541.360 Procurement.
2541.370 Subgrants.

Subpart E—Reports, Records, Retention and Enforcement

2541.400 Monitoring and reporting program performance.
2541.410 Financial reporting.
2541.420 Retention and access requirements for records.
2541.430 Enforcement.
2541.440 Termination for convenience.

Subpart F—After the Grant Requirements

2541.500 Closeout.
2541.510 Later disallowances and adjustments.
2541.520 Collection of amounts due.

AUTHORITY: 42 U.S.C. 4950 *et seq.* and 12501 *et seq.*

SOURCE: 59 FR 41598, Aug. 12, 1994, unless otherwise noted.

Subpart A—General

§ 2541.10 Purpose and scope of this part.

This part establishes uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.

§ 2541.20 Scope of subpart.

This subpart contains general rules pertaining to this part and procedures for control of exceptions from this part.

§ 2541.30 Definitions.

The following definitions apply to terms used in this part and part 2542 of this chapter.

Accrued expenditures. The term *accrued expenditures* means the charges incurred by the grantee during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subgrantees, subcontractors, and other payees; and

(3) Other amounts becoming owed under programs for which no current services or performance is required,