

Written Testimony of Robert Velasco, II
Acting CEO of the Corporation for National and Community Service
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Subcommittee on Higher Education and Workforce Training
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Madam Chair. Congressman Hinojosa. Thank you for the opportunity to testify before the Committee today.

I am Robert Velasco II, the Acting Chief Executive Officer (CEO) of the Corporation for National and Community Service (CNCS). I am a senior career Federal employee and have served for over 17 years in various Federal agencies, including the Administration for Children and Families and Medicare Hearings and Appeals at the United States Department of Health and Human Services. I came to CNCS 10 months ago to serve as the Chief Operating Officer. And I was honored when the President recently asked me to step in as the Acting CEO until the President nominates, and the Senate confirms, a permanent CEO.

I am here today because I share your commitment to accountability in national service programs. During this testimony, I will describe the agency's procedures to prevent prohibited activities by grantees, detect possible prohibited activity, and enforce rules on prohibited activities. Additionally, I will outline recent actions in identifying and addressing an instance of alleged prohibited activity by AmeriCorps members. In the spirit of accountability and transparency, I welcome this opportunity to provide an explanation of what happened, what we did about it, and what we plan to do in the future to prevent a recurrence.

In a moment I will address in detail the various systems that CNCS has put in place to ensure accountability in national service. But first, I would like to begin by giving the Committee an overview of the important role CNCS plays in both engaging and serving the American people.

CNCS – An Overview of Who We Are

CNCS is a federal agency that brings leadership, resources, coordination, focus, and scale to America's voluntary sector. CNCS programs bring together those who want to serve with the assets of community organizations and the funding from public and private sectors to build enduring community capacity. With federal funds, CNCS supports a network of state service commissions, intermediary organizations, grantees, non-profit organizations and sponsors through which millions of Americans help the most vulnerable citizens, improve their neighborhoods, and transform their own lives. As a result of this network, citizen-centered solutions take root, are sustained, and transform communities and the nation.

CNCS is a federal agency structured like a Corporation, governed by a Presidentially-appointed, Senate-confirmed CEO and actively engaged bi-partisan Board of Directors.

But, CNCS has its roots in our country's historic commitment to national service that reaches back to the Civilian Conservation Corps, the Peace Corps, VISTA and Senior Corps through more recent additions such as the Points of Light and AmeriCorps. These initiatives have been supported by Presidents and Congresses of both parties. And there is growing recognition from Governors and Mayors across the country of the value of national service in meeting local needs and fostering a sense of connection and community. Reflecting that bi-partisan history and enthusiasm, in 2009 Congress passed landmark legislation to reauthorize our agency and its programs through the Edward M. Kennedy Serve America Act, the most sweeping expansion of national service in our nation's history. CNCS is governed by a Senate-confirmed, actively engaged, bi-partisan Board of Directors.

The agency's mission is to improve lives, strengthen communities and foster civic engagement. To that end, CNCS programs directly engage nearly half a million Americans in intense, results-driven service and volunteer action.

In the original legislation creating CNCS, Congress determined that the best way to fulfill that mission was to establish a strong partnership between the agency and state governments. A large percentage of CNCS resources are distributed to and administered by Governor-appointed state commissions on service and volunteering. In addition, the agency is designed as a public-private partnership, with resources reaching national and local non-profits. Through this system, Congress wanted to be sure that national service resources would be directed to local non-profits that are able to identify and meet the specific and often unique challenges that face our local communities.

National service participants play a critical role in responding to natural disasters like the tornados in Tuscaloosa and Joplin, and also in responding to less dramatic but equally challenging situations like the school drop-out crisis, the plight of returning veterans and challenges facing military families. Among the non-profits that rely on CNCS support are national organizations such as Habitat for Humanity, United Way, Teach for America, Boys and Girls Clubs, City Year, the American Red Cross and YouthBuild USA. Our reach is equally as strong in outstanding local organizations like the Stokes County Partnership for Children in King, NC; AmeriCorps Youth Harvest Program in Pharr, TX; Minnesota Reading Corps in Minneapolis, MN; the American Red Cross Southern Arizona's veteran corps program, Operation Desert Home, in Tucson, AZ; and BAYAC AmeriCorps in Richmond, CA.

In tough economic times and an era of tight budgets, volunteer service has increasingly become an essential strategy for meeting community challenges. And notably, the support that CNCS is able to provide to states and non-profits is matched by funds from others sources – last year alone CNCS-supported programs attracted more than \$800 million of resources from other sources in the national service arena.

In the over five years since Hurricane Katrina more than 105,000 national service participants have given 10 million hours of service – helping to repair or build more than 12,500 homes, manage more than 600,000 people who came to the Gulf to volunteer their

time and talent, and ultimately to serve more than 3 million people who live in the states and communities along the Gulf Coast. That is why Mississippi Governor Haley Barbour recently called national service “about as good an equation as you can find for making a Federal program work, with state oversight, serving community needs, and bettering the individuals who serve.”

And the post-Katrina situation is being replayed right now in Joplin, Missouri, the site of the worst tornado in American history.

The tornado touched down in Joplin at 6 in the evening and the first AmeriCorps members arrived on the ground at 2 a.m., just 8 hours later. By 5:30 a.m. they had established the first call center so Joplin residents and their loved ones could establish a connection with one another, and later that first day they had established the volunteer recruitment and deployment center. Since the tornado struck on May 22, just one month ago, AmeriCorps members have helped to recruit, deploy, supervise and thank more than 28,000 people who have volunteered more than 161,000 hours. It is a stunning effort. And it explains why the Assistant City Manager who is leading the response and recovery effort in Joplin recently said to the AmeriCorps members: “Whatever you guys do, please don’t go.”

I recently had the opportunity to witness first-hand the power of AmeriCorps members who are hard at work organizing and supervising volunteers. I was one of hundreds of people who volunteered to help revitalize hard-hit neighborhoods in New Orleans. It was a powerful experience to rebuild playgrounds alongside energetic community members who were overwhelmed with gratitude for the widespread effort. Even more moving was witnessing the result of AmeriCorps members who had helped rebuild the home of a long-time New Orleans East resident and were moving her back in nearly six years after Katrina damaged it.

What I saw and experienced is the same thing that Governor Haley Barbour saw, the same thing the Assistant City Manager in Joplin saw – that AmeriCorps members play a crucial role not only in getting work done on the frontlines to help real people in very real ways, but also in leveraging the time, talent and energy of American citizens who want to volunteer.

The service experience leaves an indelible mark on those who serve as well. Since its inception, nearly 700,000 Americans have participated in AmeriCorps. AmeriCorps alumni share an abiding commitment to helping their communities and are leaders in business, nonprofits and government, including the U.S. Congress. AmeriCorps service – like service in the armed forces and the Peace Corps – is a formative experience for young Americans who want to be of service to their communities and their country.

Accountability at CNCS

CNCS puts a high premium on being a well-managed agency – we strive to be an agency that produces real impact in communities across the country and is a good steward of

taxpayer resources. We have worked hard to establish a culture of accountability and compliance both within the agency and among the organizations that receive grant funds from the agency.

With some of our programs, the competitive nature of the grant process helps to ensure that accountability. The AmeriCorps program selects its grantees through a rigorous competitive process involving detailed applications and multiple layers of review, including independent reviews by outside experts. In recent years, the grant selection process for AmeriCorps awards has been especially competitive as AmeriCorps members are regarded as an extremely valuable resource and national service is increasingly embraced as a strategy for meeting community needs.

Like other federal and state grantmaking agencies, CNCS uses a risk-based monitoring approach to oversee the performance and compliance of national service grantees. The agency's approach is founded on basic federal practice for the type of grants we give and is consistent with recommendations from our Inspector General and the GAO's recommended approach to federal grants monitoring and is described more fully below in the section on detection.

To understand CNCS's oversight and monitoring rubric, it is important to keep in mind the way Congress set up CNCS' grantmaking and how CNCS-supported programs operate. As noted above, the agency makes grants to Governor-appointed state commissions and to national non-profit organizations. Those state commissions and national non-profits, in turn, make subgrants to local organizations that recruit, train, deploy and supervise AmeriCorps members.

Accordingly, the agency's oversight and monitoring approach reflects the multi-layered and decentralized approach to the distribution of funds. CNCS's responsibility lies primarily with the organizations that are direct grantees of the agency. Those grantees, in turn, are responsible for overseeing and ensuring the performance and compliance of the subgrantees. In conducting our oversight and monitoring of our direct grantees, we look at how those organizations perform and also very carefully examine how those organizations in turn oversee and monitor their subgrantees.

With respect to all of the rules that govern CNCS grants – including the prohibited activities for AmeriCorps members – CNCS's oversight and monitoring activities fall into three categories: prevention, detection and enforcement.

Preventing Prohibited Activities. Considering its straight-forward purpose, the AmeriCorps grant program is a complex structure with an even more complex set of rules. Among the important restrictions governing the AmeriCorps grant program are those setting forth the types of activities that are “prohibited” and may not be performed by grantee staff or AmeriCorps members during their service hours. Those activities, reinforced by the Serve America Act, include union organizing, engaging in protests or boycotts, and conducting a voter registration drive. 42 U.S.C. 12584a. To ensure the success of our grantees, CNCS undertakes extensive efforts to convey its rules in a clear

and comprehensible manner. We begin communicating these rules before a grant is ever made, and reiterate them at every stage of the grants process.

In its outreach to prospective applicants, CNCS begins to lay out the framework for AmeriCorps service, emphasizing not only what AmeriCorps members should be used for, but also what they should never be used for, including prohibited member activities. Prospective applicants are then informed through the grant application of the laws and rules that apply to CNCS grants, including prohibited activities. The application instructions specifically direct applicants to describe how they will ensure compliance with the rules on prohibited activities. In submitting an application for funding, an organization provides certifications and assurances that it understands and will abide by all of the rules, including the rules on prohibited activities.

A grant applicant must also provide a detailed description of proposed member activities. CNCS reviews proposed member activities during its competitive grant process to ensure that the activities not only address an unmet community need, but also are appropriate for AmeriCorps service. If an activity appears to pose a risk that a member may be used for a prohibited purpose, CNCS directly clarifies with the applicant to ensure that this is not the case.

If an organization is selected for funding, it receives a grant award notification that includes extensive provisions detailing all of the requirements associated with the grant, including prohibited member activities. By accepting the grant award, the organization accepts absolute responsibility for complying with all of the requirements. Each grantee further agrees that it is ultimately responsible for ensuring that any organization to which it sub-grants CNCS funds (i.e., “subgrantees”) or that serves as a placement site for AmeriCorps members is informed of and commits to complying with all of CNCS’s requirements.

Not only is the grantee ultimately responsible for its subgrantees’ compliance, but also for ensuring that each AmeriCorps member supported under the grant receives proper training on prohibited activities, monitoring, and supervision. The grantee must require each member to sign a “member contract” detailing, among other things, prohibited member activities. At the time the member completes service, both the member and the responsible program must provide separate certifications to CNCS, under penalty of perjury, that the member did not engage in prohibited activities during service hours.

During the grant’s operation, CNCS provides support to grantees in meeting their obligations, including providing regular training and technical assistance. CNCS dedicates considerable time and assistance to new grantees in developing appropriate policies and procedures to support compliance of sub-grantees and placement sites. For new grantees, CNCS often reviews sample position descriptions, member agreements, site agreements, and training curricula to ensure that all AmeriCorps members and site locations are instructed on prohibited activities. For further support, we make extensive materials available through the online National Service Resource Center, and in some instances provide onsite assistance.

Throughout the grant's operation, our staff serve as a continuing resource to AmeriCorps programs. It is common for grantees to seek guidance from program officers about the rules, including inquiries related to appropriate member assignments and activities. Certain prohibited activities present more questions than others, especially those prohibitions around religious and political activities during service hours. Thus, CNCS has offered trainings specific to these subjects, and has developed and regularly updates frequently asked questions on these activities for our grantees and members, available on our website, and distributed to our grantees as part of the agency's Office of General Counsel's annual reminder detailing the restrictions on engaging in prohibited activities during AmeriCorps service.

As you can see, CNCS has a comprehensive and multi-faceted prevention protocol that forms the basis of the culture of compliance within the agency and among the grantees.

Detecting Prohibited Activities. To support our efforts to strictly enforce applicable laws, regulations and agency rules, we also work diligently to verify that grantees are complying. As noted above, the agency uses a risk-based approach to monitoring. The agency conducts an annual review of state commissions and direct grantees to assess and to prioritize our monitoring activity and resources. In addition to this overall review of all grantees, our program and grant monitoring staff are constantly reviewing materials and reports to see if they raise questions about a grantee's performance or compliance.

Each year, CNCS develops a monitoring plan that establishes (1) the "baseline" for a given fiscal year that identifies those grantees that will be monitored, and (2) the level of additional monitoring activity that will be conducted during the course of that fiscal year. Baseline monitoring activities are those that are identified through the risk-assessment process as high priorities and must be monitored during that fiscal year. Additional monitoring activities are those that are not essential but may be conducted over the course of the fiscal year as need arises and as staff and travel resources are available. Grantees are evaluated each year based on four multi-factor criteria: organizational strength; program success; financial competency; and compliance with CNCS administrative programs.

Based on the risk assessment and identification of potential problems described above, CNCS conducts several forms of oversight and monitoring on a wide range of performance and compliance measures, including prohibited activities. Some monitoring takes the form of desk audits that are conducted by trained and knowledgeable program officers over the phone from the agency offices. In addition, each year many grantees receive onsite monitoring visits. As with desk audits, onsite monitoring is conducted by program officers who are well-trained in our monitoring protocol and are very knowledgeable about the applicable statutes, regulations and rules. Desk audits can be comprehensive or targeted on a specific issue that has come to the fore. Onsite visits are comprehensive reviews of performance and compliance on multiple dimensions. Whether the monitoring activity is remote or onsite, the monitoring procedures involve a detailed protocol to explore and uncover any issues that may arise concerning the grantee.

A key part of the monitoring protocol is to determine whether the grantee has developed the necessary policies and procedures to assure compliance and is actually implementing those policies and procedures. But the review goes far beyond assessing policies and procedures. During site visits, CNCS staff also review service activities and speak directly to AmeriCorps members to specifically check for prohibited activities. When non-compliance is discovered, the Corporation's enforcement protocol, which is described below, comes into play and grantees are brought into compliance as quickly as possible.

We require our direct grantees to use the same or similar type of oversight and monitoring tools and procedures in reviewing the performance and compliance of their subgrantees.

We have worked hard to develop and implement our oversight and monitoring tools. In the spirit of continuous learning and improvement, we are always looking for ways to enhance the effectiveness of our oversight and monitoring.

In addition to our own efforts to detect whether prohibited activities are taking place, the Inspector General (IG) plays a crucial role. The IG maintains a hotline for anyone to call if they believe a prohibited activity may be taking place. The IG's office also conducts its own oversight and monitoring of CNCS grantees. The IG brings the agency individual findings in specific cases and provides recommendations for improving our accountability measures in general. We have worked closely and cooperatively with our IG. Over the years, the Office of IG reviewed our detection and monitoring protocol during its regular audits of the agency. On more than one occasion prior to 2005, the IG commented that CNCS's monitoring needed improvement. In response to that concern, CNCS has implemented several improvements recommended by the IG and has received progressively improved evaluations of our system. In fact, the IG no longer considers our monitoring protocol to be a subject of concern.

Enforcing the Rules Regarding Prohibited Activities. In the event that individuals and organizations fail to abide by the rules, CNCS can implement several enforcement options depending on the nature, circumstances and severity of the infraction. The enforcement tools range from assistance with compliance in cases of the mildest and most innocent mistakes to termination of service or termination of a grant in the case of the most egregious and intentional acts. The full range of enforcement options for cases of prohibited activities includes:

- Requiring corrective action plan;
- Disallowing member hours;
- Disallowing member education awards;
- Recovering unallowable costs;
- Conditioning the grant award;
- Placing a manual hold on disbursements;

- Suspending the grant; and/or
- Terminating the grant.

Additionally, we report instances of prohibited activity to the Inspector General who has the option of conducting an independent investigation and when the circumstances dictate can refer cases to the U.S. Attorney and the Department of Justice for civil action or criminal prosecution.

CNCS can use this range of enforcement tools in dealing with its direct grantees. These grantees have the same range of options in dealing with their subgrantees, including reporting prohibited activities to the agency's Inspector General. Moreover, in the case of failure of compliance by a subgrantee, the agency may require its direct grantee to take specific actions with respect to the subgrantee.

Accountability and the Recent Incident in New York

CNCS' policies and culture of compliance dictate that when we discover that a grantee or subgrantee has violated the rules, we take the matter seriously and act quickly to investigate the situation and take the necessary steps to protect the Federal funds with which we are entrusted. As you are aware, we recently discovered such a violation.

On Friday, May 13, 2011, CNCS received a letter from Planned Parenthood New York City (PPNYC). At first, this letter appeared to be similar to other letters CNCS receives during grant competitions expressing support for a particular grantee – in this case, the New York City Civic Corps (NYCCC), a sub-grantee of the New York State Commission on Volunteering and Service (New York State Commission). However, upon closer examination of the letter on Monday, May 16, CNCS became concerned that the activities performed by two NYCCC AmeriCorps members serving at PPNYC as described in the letter could be prohibited advocacy activities.

Sections 130 and 132A of the National and Community Service Act set forth activities that AmeriCorps participants or staff may not engage in while charging time to the AmeriCorps grant. While each prohibited activity is significant in defining the role of AmeriCorps members not just by what they do, but also by what they must not do, the prohibitions on certain types of advocacy activity are of particular significance considering the level of care CNCS has taken over the years to ensure compliance. From the creation of the Corporation in 1993, CNCS has undertaken several waves of rulemaking (1994, 2002, 2005, and 2008) to further clarify and strengthen the prohibition on certain types of activity set forth in the 1993 Act and in government-wide rules designed to prevent Federal dollars from being used for partisan political activity. In 2009, Congress codified the prohibitions originally crafted by the Corporation, including the rule set forth in 45 CFR 2520.65(a)(6) prohibiting individuals from “participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials” during their service hours.

The activities described in PPNYC's letter appeared to fit this description, and CNCS took immediate action to determine whether the members were, in fact, engaged in prohibited activities during service hours. Between Monday and Wednesday, May 16-18, CNCS reviewed its internal records for information about the approved grant activities for NYCCC, the funding history of the organization, NYCCC's placement sites, and the service data for the members in question. NYCCC received a three-year competitive grant through the New York State Commission to use AmeriCorps members to develop sustainable volunteer programs and otherwise build the capacity of non-profits in New York City. According to the approved grant application, AmeriCorps members selected and managed by NYCCC would be placed at one of a dozen or more non-profits and city agencies to recruit, manage, and support volunteers working towards several of CNCS's strategic focus areas, including education, environmental issues, and healthy futures.

On Wednesday, May 18, CNCS contacted our grantee, the New York State Commission, to alert them to CNCS's concerns and to request additional information, including position descriptions for the two members and further details about the members' daily activities. By Thursday, May 19, the Commission had provided the requested documents, which revealed that the members, while developing sustainable volunteer programs as described in the grant application, were engaged in recruiting and training volunteers who would engage in political advocacy. After reviewing the information provided, CNCS concluded that there was sufficient reason to believe that the members were engaged in prohibited activities.

By noon on Friday, May 20, one week from receiving the letter, CNCS called the New York State Commission and requested that it take immediate action to ensure that the two members in question were not engaged in prohibited activities. Within hours, the State Commission confirmed with CNCS that it had reached its own conclusion that the members were engaged in prohibited activities, and ensured CNCS that the members would not be permitted to further engage in those activities.

That afternoon, consistent with practice, CNCS informed the two entities charged with regular oversight of CNCS – the Office of the Inspector General and CNCS's Board of Directors – of our concerns and actions to date. CNCS has continued to provide both with regular updates as the situation has unfolded.

Over the course of the following week, CNCS worked closely with the New York State Commission and its grantee, NYCCC, to resolve outstanding logistical questions about the members' service. Both members were suspended from service. CNCS informed New York State and NYCCC that no costs associated with the members' service at PPNYC would be allowed, and that no hours spent engaging in prohibited political activity could be counted towards the members' service hour requirement to receive an education award. CNCS also informed the members of several Congressional committees of the incident and of the way in which CNCS was working to resolve it.

On June 1, the Office of Inspector General informed CNCS that it would evaluate the situation to determine whether there had been any fraud, waste, or abuse of Federal

resources, and to assess CNCS's management of the situation. CNCS worked in close cooperation with OIG's investigators to provide the requested information. After conducting a preliminary review, the OIG reported that it had determined it was unnecessary to conduct a full investigation because there did not appear to be any fraud, waste, or abuse. Further, because OIG approved of the manner in which CNCS was conducting its own oversight and was proceeding with respect to disallowing costs, any further investigation would be duplicative of the agency's efforts.

At this time, CNCS considers the situation to be resolved. There are no AmeriCorps members currently serving at PPNYC. CNCS has reached agreement with New York State regarding the disallowance of costs associated with the members. Today, we can provide you with assurance that all associated federal funds were protected.

CNCS Looks to the Future—An Action Plan

In an effort to continuously improve our accountability program, CNCS is strengthening existing protocols and instituting new practices in the prevention, detection, and enforcement of prohibited activities. By early July, we will disseminate clear reminders about prohibited activities to all grantees - by conference call and in written correspondence - and will add a requirement to program grant provisions that all grantees strengthen their AmeriCorps member training on prohibited activities. We plan to develop and begin implementation of a new required training designed to educate grantees on prohibited activities and disseminate best practices for the prevention, detection, and enforcement of such activities. This information will be shared again at the AmeriCorps annual grantee training meeting in September that all grantees are required to attend.

We intend to require grantees with subgrants to submit a monitoring and oversight plan and certify, on an annual basis, both an understanding of and adherence to agency regulations on prohibited activities. The plan must detail how the grantee will ensure that sub-grantees and service sites comply with all relevant grant requirements. Agency staff is also currently reviewing the program's risk assessment model and sampling methodology and will identify enhancements by August 2011.

We also will provide information to AmeriCorps members more directly by listing all prohibited activities on the AmeriCorps website, in the descriptions of AmeriCorps member opportunities, in the application, and in the welcome letter from the Director of AmeriCorps following admission to the program. By late July, all program officers and grant specialists will receive refresher training on prevention, detection, and enforcement protocols.

We look forward to working with this Committee and will be prepared to report on our progress in implementing this Action Plan in 90 days.

Conclusion

In closing, I think it is clear that CNCS shares the Committee's concern about the importance of accountability in national service and about preventing prohibited activities. I hope my testimony here has reassured you of CNCS's dedication to its work in this area.

There is no reason for the incident in New York to diminish in any way the tremendous and critical service being rendered by tens of thousands of dedicated citizens serving in AmeriCorps and other CNCS-supported programs. Our quick, action-oriented response to the situation in New York City led to a prompt and complete resolution. Our quest for continuous improvement has led CNCS to develop an action plan that will enhance our accountability program.

If we are to meet the challenges in our communities, it will take the active engagement of our fellow citizens who raise their hands to say that they want to help. That is what national service is all about.

Thank you again for the opportunity to be here today.