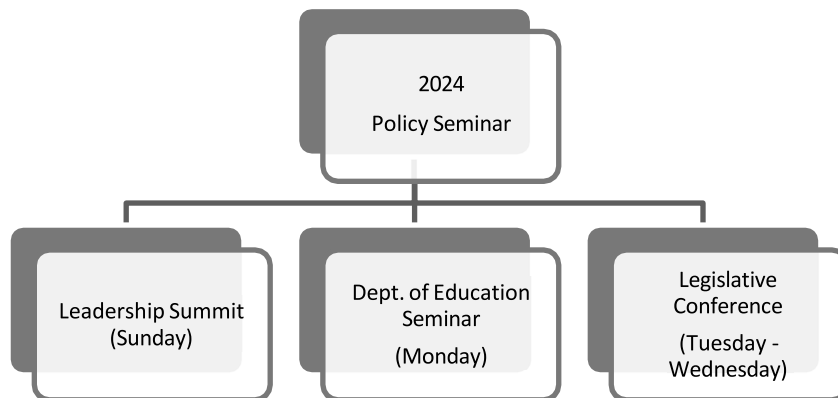


WHAT IS THE “COE POLICY SEMINAR”?

COE’s Annual Policy Seminar is a three-part series of events that includes (1) the National College Opportunity Programs Leadership Summit (“Leadership Summit”), a one-day leadership and networking event for current state and regional leaders as well as any TRIO professional wishing to develop their leadership skills; (2) the Seminar on Relations with the U.S. Department of Education (“ED Seminar”), which includes remarks from grant agency officials and programmatic sessions with Dept of ED Program Specialists; and (3) a two-day advocacy session, now officially titled the “Legislative Conference,” which features remarks by key Members of Congress, panels of legislative experts, and visits to Capitol Hill. Despite the distinct nature of these different events, collectively, these functions constitute what is known as the “COE Policy Seminar.”

WHAT IS THE SCHEDULE FOR 2024?

The Policy Seminar will kick off on Sunday, March 17 with the Leadership Summit. Then, on Monday, March 18, the Council will host its Seminar on Relations with the U.S. Department of Education. Then, the Legislative Conference will start Monday evening, with a full day of sessions and workshops Tuesday March 19 and conclude with the Day on the Hill on Wednesday, March 20.



At this moment, some individuals may be wondering how it is possible to participate in the entirety of the Policy Seminar given the regulatory restrictions on the use of federal grant dollars. Despite these limitations, which are discussed further below, it is still very possible to participate in the Policy Seminar. It simply requires participants to allocate appropriately.

HOW TO ALLOCATE COSTS OF ATTENDING THE COE POLICY SEMINAR

- 1. Identify appropriate uses of funds and allocate accordingly.** The governing regulations provide clear guidance as to the types of activities that are allowable and unallowable with respect to travel, conferences, etc. (For your convenience, a copy of the relevant regulations appears below.) For example, because the professional development activities associated with the Leadership Summit

are “necessary and reasonable for the performance” of Federal TRIO Programs and other college access programs, grant funds may be used to cover travel costs (which include “lodging and subsistence”) associated with travel to and accommodations during the Leadership Summit.¹ Similarly, because the activities during the Seminar on Relations with the Department of Education are part of an event which has as its “primary purpose...the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal award,” grant funds may be used to cover costs – including registration and overnight lodging – for the Seminar on Relations with the Department of Education.² In contrast to these events, because most of the activities during the formal two-day Legislative Conference constitute “lobbying” – that is, because they involve “attempts to influence” legislation to directly benefit college access programs – funds associated with the two-day Legislative Conference – including overnight lodging and meals – must *not* come from federal grant funds.³ Also, grant funds cannot be used to support any alumni activities – including alumnus registration, travel etc. – for the Policy Seminar as stated in the federal regulations.⁴

It is important to remember that *this restriction does not mean that grant recipients are prohibited from lobbying; only that they are prohibited from using grant funds to do so.* How, then, can potential attendees come to Washington, DC to participate in the Leadership Summit, Seminar on Relations with the Department of Education, and the Legislative Conference without offending the regulations? By **allocating costs for these separate activities in a manner that is consistent across the entire trip and with the host institution’s policies.** With respect to travel costs, in particular, 2 C.F.R. §200.474(a) states:

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies.

2. **Identify other, non-federal grant resources to defray costs.** As your institution has taken on the responsibility of providing educational supports to low-income, first-generation students, it has a vested interest in ensuring those resources will remain available in years to come. Therefore, TRIO grantees are strongly encouraged to work with their host institutions to identify other, non-federal grant funds to cover costs associated with the two-day Legislative Conference. Some TRIO professionals have made it an annual practice to appeal to the officials who oversee such programs; in many such instances, officials have begun to work these monies into their yearly budgets. Additionally, your state and/or regional association may have resources available to support attendance at the Legislative Conference portion of the Policy Seminar, particularly if you serve in a leadership capacity, participated in the Emerging Leaders Institute, etc.
3. **Treat Legislative Conference activities as non-work activities.** Because of the nature of activities that occur during the Legislative Conference (e.g., strategy sessions and meetings with Members of Congress and their staff), it is important to treat these as non-work activities. Therefore, participants

¹ 2 C.F.R. §§200.403(a) (“Factors affecting allowability of costs”); 200.432 (“Conferences”); and 200.474(a),(b) (“Travel”).



² 2 C.F.R. §§ 200.432 (“Conferences”) and 200.474(a),(b) (“Travel”).

³ 2 C.F.R. §200.450 (“Lobbying”).

⁴ 2 C.F.R. §200.424 (“Alumni/ae activities”).

must make use of vacation days and also rely on non-grant funds to cover activities during the two-day event (meals, taxi rides, etc.).

The Policy Seminar is the oldest and the most important activity of the Council for Opportunity in Education. Without the organized and robust advocacy of the college access and success community, low-income, first-generation students and the programs that serve them would have ceased to exist long ago. Your presence is needed in Washington, DC to ensure the continued growth and support of these programs for the students of today and tomorrow.

If you have any questions about allocation of costs or other matters relating to participation in Policy Seminar, please contact COE's VP of Public Policy, Diane Shust (diane.shust@coenet.org) or AVP of State Initiatives, Jen Rudolph (jennifer.rudolph@coenet.org) via e-mail or phone (202.347.7430).

RELEVANT REGULATIONS

2 C.F.R. §200.403 Factors affecting allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

2 C.F.R. §200.432 Conferences.



A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal award. Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The Federal awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly. See also §§200.438 Entertainment costs, 200.456 Participant support costs, 200.474 Travel costs, and 200.475 Trustees.

2 C.F.R. §200.450 Lobbying.

(a) The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans is governed by relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, “New Restrictions on Lobbying” published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget “Governmentwide Guidance for New Restrictions on Lobbying” and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996).

(b) Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a Federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter.

(c) In addition to the above, the following restrictions are applicable to nonprofit organizations and IHEs:

(1) Costs associated with the following activities are unallowable:

(i) Attempts to influence the outcomes of any Federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;

(ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections in the United States;

(iii) Any attempt to influence:

(A) The introduction of Federal or state legislation;

(B) The enactment or modification of any pending Federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence state or local officials to engage in similar lobbying activity);

(C) The enactment or modification of any pending Federal or state legislation by preparing, distributing, or



using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign; or

(D) Any government official or employee in connection with a decision to sign or veto enrolled legislation;

(iv) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

(2) The following activities are excepted from the coverage of paragraph (c)(1) of this section:

(i) Technical and factual presentations on topics directly related to the performance of a grant, contract, or other agreement (through hearing testimony, statements, or letters to the Congress or a state legislature, or subdivision, member, or cognizant staff member thereof), in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the non-Federal entity's member of congress, legislative body or a subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and can be readily put in deliverable form, and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearings;

(ii) Any lobbying made unallowable by paragraph (c)(1)(iii) of this section to influence state legislation in order to directly reduce the cost, or to avoid material impairment of the non-Federal entity's authority to perform the grant, contract, or other agreement; or

(iii) Any activity specifically authorized by statute to be undertaken with funds from the Federal award.

(iv) Any activity excepted from the definitions of "lobbying" or "influencing legislation" by the Internal Revenue Code provisions that require nonprofit organizations to limit their participation in direct and "grass roots" lobbying activities in order to retain their charitable deduction status and avoid punitive excise taxes, I.R.C. §§501(c)(3), 501(h), 4911(a), including:

(A) Nonpartisan analysis, study, or research reports;

(B) Examinations and discussions of broad social, economic, and similar problems; and

(C) Information provided upon request by a legislator for technical advice and assistance, as defined by I.R.C. §4911(d)(2) and 26 CFR 56.4911-2(c)(1)-(c)(3).

(v) When a non-Federal entity seeks reimbursement for indirect (F&A) costs, total lobbying costs must be separately identified in the indirect (F&A) cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of §200.413 Direct costs.

(vi) The non-Federal entity must submit as part of its annual indirect (F&A) cost rate proposal a certification that the requirements and standards of this section have been complied with. (See also §200.415 Required certifications.)



(vii)(A) Time logs, calendars, or similar records are not required to be created for purposes of complying with the record keeping requirements in §200.302 Financial management with respect to lobbying costs during any particular calendar month when:

- (1) The employee engages in lobbying (as defined in paragraphs (c)(1) and (c)(2) of this section) 25 percent or less of the employee's compensated hours of employment during that calendar month; and
- (2) Within the preceding five-year period, the non-Federal entity has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs.

(B) When conditions in paragraph (c)(2)(vii)(A)(1) and (2) of this section are met, non-Federal entities are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions in paragraphs (c)(2)(vii)(A)(1) and (2) of this section are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

(viii) The Federal awarding agency must establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions must be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this part, provided, however, that this must not be construed to prevent a contractor or non-Federal entity from contesting the lawfulness of such a determination.

2 C.F.R. §200.474 Travel costs.

(a) *General.* Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies. Notwithstanding the provisions of §200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.

(b) *Lodging and subsistence.* Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-Federal entity in its regular operations as the result of the non-Federal entity's written travel policy. In addition, if these costs are charged directly to the Federal award documentation must justify that:

- (1) Participation of the individual is necessary to the Federal award; and
- (2) The costs are reasonable and consistent with non-Federal entity's established travel policy.

(c)(1) Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that:

- (i) The costs are a direct result of the individual's travel for the Federal award;

- (ii) The costs are consistent with the non-Federal entity's documented travel policy for all entity travel; and
- (iii) Are only temporary during the travel period.

(2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency. See also §200.432 Conferences.

(d) In the absence of an acceptable, written non-Federal entity policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, (“Travel and Subsistence Expenses; Mileage Allowances”), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205-46(a)).

(e) *Commercial air travel.* (1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:

- (i) Require circuitous routing;
- (ii) Require travel during unreasonable hours;
- (iii) Excessively prolong travel;
- (iv) Result in additional costs that would offset the transportation savings; or
- (v) Offer accommodations not reasonably adequate for the traveler's medical needs. The non-Federal entity must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases.

(2) Unless a pattern of avoidance is detected, the Federal Government will generally not question a non-Federal entity's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the non-Federal entity can demonstrate that such airfare was not available in the specific case.

(f) *Air travel by other than commercial carrier.* Costs of travel by non-Federal entity-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of airfare as provided for in paragraph (d) of this section, is unallowable.